82/82
c
v. 1

The Bancroft Library
University of California • Berkeley

Berkeley
LIBRARY OF THE UNIVERSITY OF CALIFORNIA

Regional Oral History Office
The Bancroft Library

University of California
Berkeley, California

Northern California U.S. District Court Series

George B. Harris

MEMORIES OF SAN FRANCISCO LEGAL PRACTICE AND STATE AND FEDERAL COURTS, 1920s-1960s

An Interview Conducted by
Gabrielle Morris
in 1980

Sponsored by the Historical Society of the
United States District Court for the Northern District of California

Copyright © 1981 by the Regents of the University of California

All uses of this manuscript are covered by a legal agreement between the Regents of the University of California and George B. Harris dated September 30, 1980. The manuscript is thereby made available for research purposes. All literary rights to publish are reserved to George B. Harris until September 30, 1990. No part of the manuscript may be quoted for publication without the written permission of the Director of The Bancroft Library of the University of California at Berkeley.

Requests for permission to quote for publication should be addressed to the Regional Oral History Office, 486 Library, and should include identification of the specific passages to be quoted, anticipated use of the passages, and identification of the user. The legal agreement with George B. Harris requires that he be notified of the request and allowed thirty days in which to respond.

It is recommended that this oral history be cited as follows:

George B. Harris, "Memories of San Francisco Legal Practice and State and Federal Courts, 1920s-1960s," an oral history conducted in 1980 by Gabrielle Morris, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1981.

Copy no. 1

GEORGE BERNARD HARRIS

CA. 1960

TABLE OF CONTENTS -- Judge George B. Harris

PREFACE i

INTERVIEW HISTORY ii

I FAMILY AND CHILDHOOD IN SAN FRANCISCO 1
California Pioneer Forebears 1
Grandfather Howard's Draying Business 5
Grandmother Howard; Catholic Schooling 13

II EDUCATION AND OTHER INTERESTS 18
Work and Law School 18
Observations of the Tevis Family and Kern County Land Company 21
Studies at Sacred Heart; Theater Experiences 24
Christian Doctrine; Debating Society 28
Law School or the Priesthood 31
St. Ignatius Law School 36

III BEGINNING A LAWYER'S LIFE 38
Student Clerk and Bar Exams 38
Recollections of Gavin McNab and Nat Schmulowitz 43
Continuing Interest in the Theater 48
Friendship with Rudolph Friml 51
Native Sons of the Golden West 55
Aileen Duffy Harris 57

IV OFFICE PRACTICE: POLITICAL INTERESTS 60
Representing Hollywood Stars; A Celebrated Estate Contest 60
Office Management 64
Antitrust and the District Court 66
Pretrial Proceedings 69
Assisting Gavin McNab 72
Democratic Candidate for Assembly, 1938 78

V SAN FRANCISCO MUNICIPAL COURT, 1941-1946 85
Appointment by Governor Olson; Chief Justice Gibson's Reforms 85
World War II and Port Security 89
Women Attorneys 92
Fellow Municipal Judges 95
First Days on the Bench 101
The Public Defender System 102
Selective Service Appeals Board 107
Challenges of the Municipal Court 108
Duties of a Presiding Judge 111
Selective Service Proceedings and Administrative Law 114
Probation, State and Federal 116
Juvenile Court; Assignments to Superior Court 118

VI BECOMING A FEDERAL JUDGE 122
Appointment to the Northern District Court of California, 1946 122
Induction: Appellate Review and Instructions to Jurors 130
Law Clerk Richard Goldsmith 133
Fellow District Judges 134
Growth of the Court 137

VII MATTERS BEFORE THE NORTHERN DISTRICT COURT OF CALIFORNIA 140
Thiel v. Southern Pacific 141
Thoughts on Courtroom Proceedings 146
Juries and Jurisdiction 149
Grand Jury Investigation, 1951-1954 152
Recollections of Antitrust and Prohibition Issues 158
Standards and Satisfactions; Court Procedures 162

VIII SOME CASES OF NOTE; ADMINISTRATION CONCERNS 167
American Can and Other Antitrust Cases 167
International Longshoremen's and Warehousemen's Proceedings 175
The United States and Harry Bridges 180
Years as Chief Judge 187

TAPE GUIDE 194

APPENDIX A - "A Free Press and its Relation to the Federal Courts," remarks of Judge George B. Harris, Ninth Judicial Circuit Conference, San Francisco, June 27-July 1, 1950 195

APPENDIX B - Closing Remarks of United States District Judge George B. Harris on the Occasion of the San Francisco Bar Association Dinner on October 28, 1970, Fairmont Hotel 212

APPENDIX C - "River Lights," prose poem by Judge George Harris, which appeared in The Skipper, December 1965 216

APPENDIX D - "Scattered Leaves," by George Harris, Sire, Bohemian Grove, July 13, 1956 217

INDEX 219

Preface

The Historical Society of the United States District Court for the Northern District of California is a non-profit organization established by federal practitioners and judges and is dedicated to preserve and develop the history of this court. The Society's goals are threefold: 1) to marshal the sources for historical study of the District; 2) to initiate and encourage comprehensive and scholarly study of the court; and 3) to develop interpretive programs and exhibits making the fruits of this research accessible and meaningful to the legal community and the general public.

In 1980 this series of oral histories conducted by The Bancroft Library was initiated as an important effort in the furtherance of the Society's objectives. By preserving the personal reminiscences of individuals whose experiences and memory can yield valuable "oral evidence" of the court's history, the Society hopes to enhance and amplify the written record.

In addition to historical study of the District, the Society hopes to promote greater public understanding and appreciation of the role of the federal judiciary. Except for those involved in the legal process, the operation, significance, and impact of federal trial courts remains largely a mystery to most Americans. By focusing on the history and activities of the Northern District, the Society hopes to bridge this gap between the legal and lay world and even encourage other District courts to initiate similar efforts. As the nation nears the 200th anniversary of the ratification of the United States Constitution, it is an appropriate time to raise the level of public understanding by placing the contemporary role of district courts in historical perspective.

Thanks are due to the foresight and generosity of the individuals and organizations whose support make this work possible.

Robert Peckham,
Historical Society of the
U.S. District Court,
Northern District of California

San Francisco, California
April, 1981

NORTHERN CALIFORNIA U.S. DISTRICT COURT SERIES

Interviews Completed and In Process, 1981

Harris, George B., *Memories of San Francisco Legal Practice and State and Federal Courts, 1920s-1960s*

Phleger, Herman, *Observations on the U.S. District Court for the Northern District of California, 1900-1940*

Wollenberg, Albert C., Sr., *To Do the Job Well: A Life in Legislative, Judicial, and Community Service*

INTERVIEW HISTORY

At the time the Northern District Court Oral History Series was established, George Bernard Harris was the senior member of the court, having been appointed in 1946 to the newly-created fourth seat. When he retired in 1979, there were ten judges on active status with the court. It was thus most appropriate that Judge Harris was selected by the Northern District Court Historical Society to tape record his memories of those earlier days of the court, and of the San Francisco bench and bar in which he had served since the 1920s.

A handsome man of average size with a cordial manner and dry wit that reflected both his Irish ancestry and lifelong love of the theater, the judge appeared to enjoy the interview process, welcoming the interviewer to his elegantly-appointed Pacific Heights Victorian home and providing excellent coffee and pastry at each interview session. Nine sessions were recorded, between April and September 1980, with a few gaps of several weeks each due to the judge's recurring illness. The interviews follow an outline of topics based on helpful preliminary conversations with two of Judge Harris's former law clerks, Richard Goldsmith, now a federal magistrate in San Francisco, and Ed Koplowitz, now in private practice; and on a review of scrapbooks, case records, and other documents in the judge's papers. The outline was sent to him in sections as the taping progressed. In responding to the interviewer, Judge Harris would occasionally comment that his memory for detail was not what it had been, sometimes referring to his published opinion on a case, sometimes asking Patricia Driscoll, his devoted secretary for many years, to contact a former law clerk on a point.

The memoir begins with the judge's recollections of the maternal grandparents who raised him in San Francisco's Western Addition and their thriving drayage company; the dashing misadventures of his father; and his classical, disciplined Catholic education. From his family he gained an interest in the business world; from the Jesuits a sense of public affairs and service. Although he had a gift for student theatricals and debate and regularly went to see the famous actors who appeared in the city, practicality prevailed and he chose the law instead of the theater as a career. He has maintained contact with the theater, however, through writing and directing productions for the Bohemian Club, encouraging the fledgling Actors' Workshop, and a close friendship with Rudolf Friml.

In the 1920s when George Harris began to practice law, the Irish community played a major role in the political life of San Francisco. The flavor of this era is recaptured as he tells of working with attorney Gavin McNab, who had a strong voice at City Hall, but advised young Harris to look after the legal work and leave the politics to him. Democratic party leader William Malone

also took notice of the young attorney and encouraged him to run for the state assembly in 1938. Harris lost that race with a minimum of sorrow to Albert Wollenberg, Sr., later a colleague on the Northern District Court, of whom he speaks with courtly esteem, as he does of other judges with whom he served.

Among the judge's papers are two binders of congratulatory messages on his induction to the San Francisco Municipal Court in July 1941 and on his induction to the federal Northern District Court precisely five years later, that attest to the wide acquaintance and respect he enjoys in official circles. On both occasions, Harris was sworn in by Phil Gibson, chief justice of the state supreme court, whose efforts to improve administration of the state courts the two men often discussed.

Judge Harris describes his work on the state and federal bench with a broad brush, providing a sense of the measured processes of judging rather than analysis of technical or philosophical points of legal procedure. In these chapters, it is not always clear when a discussion is of municipal or federal court procedures, as when the question is of pretrial conferences or probation procedures.

Indeed there may well have been common ground between both courts since there were general efforts at both levels to expand these aspects of judicial activity. His view is that of one to whom ritual and a certain remoteness are appropriate and for whom the courts are removed from the hurly-burly of changing emotions and shifting social trends. In referring to their work with Judge Harris, both Goldsmith and Koplowitz stressed the conscientiousness of Judge Harris's handling of cases, the quality of teaching in his dealings with lawyers and juries, as well as the judge's calm response to the dramatic elements in many courtroom events. Of the variety of celebrated cases which came before Judge Harris, only a few are touched on in any detail in this oral history. In 1949, for example, he sat on both a raucous trial of long-time International Longshoremen's and Warehousemen's Union president Harry Bridges for alleged perjury [86 F. Supp. 922 and 86 F. Supp. 931] and the largest antitrust suit of its day, the case against the American Can Company [87 F. Supp. 18]. Both were marathons that evoked considerable attention, but Harris recalls serenely that there were familiar procedures with which to deal with each case.

Judge Harris's health continued to fail so that he was unable to review the transcript of the interviews, which was edited in the Regional Oral History Office. In December, 1980, questions which remained unclear and a few sensitive points were read to the judge by the interviewer and revised as he suggested. Shortly thereafter, the judge moved to Los Angeles to be near his daughter Gail Harris Getty and his grandchildren, whose activities he greatly enjoys.

Gabrielle Morris,
Interviewer-Editor

19 May 1981
Regional Oral History Office
486 The Bancroft Library
University of California at Berkeley

San Francisco Examiner EDITORI

Friday, July 24, 1970

Devoted Judge

GEORGE B. HARRIS is a gentle, warm-hearted man who loves humanity, the law and the theater in that order: Next week he will retire as chief judge of the United States District Court here after 24 years on the federal bench.

We are glad that he intends, in retirement, to return for special judicial service as the need arises. The bench will always need men of his temperament, integrity and experience.

Few men serve on the bench as long as Judge Harris has. He went on the municipal bench here at the age of 39, moved up to the federal bench at 44. The administration of justice has changed dramatically in those 29 years, particularly in the direction of meticulous regard for the rights of the poor and the ill-educated. Judge Harris, presiding at the trial court level, has been one of the devoted men who have made the changing system work.

During recent years he has carried a heavy administrative burden, made particularly difficult by judicial reorganizations, the rapid changes in the judicial process and a persistent shortage of judges. The heavy work volume delayed his retirement three years beyond the normal retirement age of 65.

We salute him on his long service and extend every good wish to him in retirement.

I FAMILY AND CHILDHOOD IN SAN FRANCISCO

[Interview 1: April 17, 1980]##

California Pioneer Forebears

Harris: I think I.M. Peckham instilled a lot of his personality in our chief judge.

Morris: Was he Robert Peckham's--?

Harris: Out of the loins of--

Morris: --father?

Harris: I believe it's uncle.

Morris: And it was I.M. Peckham who told you to join the Society of California Pioneers?

Harris: Yes. He had a lot to do with my career. Pretty good advisor; good politician, and all in all, a pretty good fellow.

Morris: Well, that's a pretty good place to start, because I wanted to ask you this morning about your family background.

Harris: Yes, fine.

Morris: To become a member of the Society of California Pioneers, if I'm right, you have to have an ancestor who was in California before 1848?

##This symbol indicates that a tape or a segment of a tape has begun or ended. For a guide to the tapes see page 194.

Harris: Yes.

Morris: Which ancestor was that of yours?

Harris: George W. Harris. I remember Peckham went into this very carefully. He had a monograph on it and also Nieves de la Sierra.

Morris: Now, was she of Spanish or Indian heritage?

Harris: Spanish.

Morris: Does family history preserve how George Washington Harris happened to come to California?

Harris: No, but we have Jack Henning--

Morris: Of the labor federation?

Harris: --who's identified in labor, and his record, of course, of achievement is very great. Jack looked up the history of the family in both sides, and has considerable material on it.

Morris: Is he a relative of yours?

Harris: Cousin. I think that I.M. Peckham went into it pretty carefully, too. I think they settled in Boston, the Harrises, Boston, Massachusetts, then came to California.

You can have a copy of this. [Hands copy of G.W. Harris birth certificate and genealogical chart. See page 3A & b.]

Morris: Thank you. Your grandfather, George Washington Harris, came to California and married Nieves de la Sierra?

Harris: Yes.

Morris: And they lived down in southern California?

Harris: No, they settled here, apparently, and the records of the Spanish church, you may recall it's located in North Beach--it had substantial records at one time before the fire of benefactions to the church. She was quite a giver of benefactions, and somewhat of an aristocrat. She--of course, this was much before my time--but my Grandma Harris spent considerable time in the Spanish church and taking care of benefactions and charities.

Morris: That was where your family lived, in the North Beach area?

Harris: Yes, it's still there. [pause] All right. Have you read that?

Morris: Yes, that fine chart of your parents and grandparents. Your father was involved in ranching?

Harris: Yes, in the Kern County area.

Morris: One could live in San Francisco and still manage ranch properties in the south?

Harris: I missed that.

Morris: Your family lived here in San Francisco--

Harris: Yes.

Morris: --but your father could still manage ranch country in southern California?

Harris: Yes. My father traded a lot of property. The Harrises were really rich, and the riches passed me by. [laughter] My father was endowed with a great deal of public interest spirit, and traded some of the magnificent property here in San Francisco and California for ranch property in Kern County, and lost considerable of the assets in that enterprise.

I never had very much to do with the Harrises in this, socially or otherwise, because my Grandma on the Irish side of the family didn't care for it too much.

Morris: That's Mary McLean?

Harris: Yes, Mary McLean. She had fixed opinions as to what she liked and what she didn't like.

Morris: And she didn't think much of the Harris side of the family?

Harris: No, losing the money first of all.

Morris: Well, I can understand that.

Harris: So I was torn between these conflicting forces. I think my Irish grandmother persuaded me that she had the best vistas of living and that I'd enjoy her companionship. It so happened that my mother passed away when I was four.

Morris: Oh, dear.

REGISTRY DIVISION, CITY OF BOSTON

COUNTY OF SUFFOLK, COMMONWEALTH OF MASSACHUSETTS, UNITED STATES OF AMERICA

Reg. 7

Certificate No. 13914

CC

CERTIFIED COPY OF RECORD OF **BIRTH** IN OFFICE OF THE CITY REGISTRAR

I, the undersigned, hereby certify that I hold the office of ..... *City Registrar of the City of Boston, and have the custody of the Records of Births, Marriages and Deaths required by law to be kept in said City; and I certify that the following facts appear on said Records:*

320 Vol 4, P. 55 Date of Birth Nov. 9, 1819 Name of Child George Washington Harris

Sex	Color	Name, Surname and Birthplace of Father	Name, Maiden Name and Birthplace of Mother
Male	White	Josiah Harris	Hannah P.

Place of Birth	Residence of Parents
Charlestown Mass	Charlestown Mass

Occupation of Parent	Name and Address of Informant

Date of Record	

38

I further certify that by annexation, the Records of the following-named cities and towns are in the custody of the City Registrar of Boston:—

	Annexed		Annexed
East Boston	1637	Charlestown	1874
South Boston	1804	Brighton	
Roxbury	1868	West Roxbury	
Dorchester	1870	Hyde Park	1912

WITNESS my hand and the SEAL of the CITY REGISTRAR

on this 25th day of April A. D. 1968

William J. Kane ..... City Registrar

By Chapter 314 of the Acts of 1892, "the certificates or attestations of either Assistant City Registrar shall have the same force and effect as that of the City Registrar."

From Judicial Conference of the U.S. Bicentennial Committee,
Biographical Questionnaire

ive information, first, for the Judge imself and, then, for parents and spouse(s). owever, do not provide information for the udge himself in the shaded areas.

Country of Origin (*with* year of arrival *and* year of naturalization *if the country is not U.S.A.*)

Family Name(s) *(Include maiden name, previous married name, etc.)*	Self	Father	Mother	Paternal Grand-father	Paternal Grand-mother	Maternal Grand-father	Maternal Grand-mother
	x						
Bernard Dugan Harris		x					
Gertrude Howard Harris			x				
Aileen Duffy Harris							
Charles Sheldon Howard						x	
Mary MacLean							x
George Washington Harris				x			
Nieves de la Sierra Harris					x		

Harris: It was a tragedy because I was a youngster growing up, and full of interest, full of ideas, even as a baby. She took me over--my grandma did--and raised me and educated me, and was a great influence on my life. I remember she'd sit up at night when I was writing. I was doing a great deal of writing even as a youngster, particularly plays and things. She'd sit up practically all night with me while I indulged myself in various enterprises.

Morris: Just to keep you company?

Harris: Yes, just to keep me company. I remember she'd say quite often: "George, you never have to carry the learning on your back." What that meant to her was a great deal, because she believed in education.

Morris: "You'll never have to carry the learning on your back."

Harris: No, I mean "You never have to carry the learning on your back."

Morris: The learning will carry you?

Harris: I suppose so.

Morris: That's a very cryptic Irish kind of a phrase.

Harris: I was privileged to go into the family history of the McLeans while Aileen and I were in Ireland several times. I finally located the birthplace of my forebear Mary McLean, and the parish church where she had her records. Jack Henning almost coincidentally discovered the birth records and so on.* He has many of them in his possession. So we have sort of worked together.

Morris: And combined the family history.

Harris: Yes.

Morris: Do you remember now, off-hand, where it was that Mary McLean was born in Ireland?

Harris: Yes, in a little town called Old Town. It's about forty miles from Dublin, maybe fifty. Her family, apparently, were ranchers, middle-class. Mary McLean was the first to come over from Ireland of the family.

---

*Although Judge Harris used the spelling 'McLean', John Henning, in an unrecorded conversation on November 18, 1980, noted that family records used the Irish-English spelling 'McLane'.

Morris: Did she come over by herself?

Harris: Yes. She was quite a woman.

Morris: I should say so.

Harris: Came over alone, and I think she arrived in Boston eventually. She got on a boat called the Henry Chauncey [spells it], a sailing vessel out of Boston, I guess. She met her husband on board this sailing ship; his name was Charles Sheldon Howard.

Morris: Did she ever tell you if she came to California or got on the boat because she thought she might find a marriageable young man?

Harris: She told me a story, and it was kind of a fascinating one. She fell in love with her husband aboard ship, and they pursued a career together. How they got to San Francisco is a matter of public record, but they went into the teaming business, trucking business.* In those days, the trucking industry was one of considerable interest to the populace, because San Francisco, as you know, was this focal point of--I'm interfering with your--

Morris: No, no. Go right ahead; this is what I like to hear.

Harris: Is this coming through all right?

Grandfather Howard's Draying Business

Morris: Very fine. You were telling me about the drayage business.

Harris: The McLeans had Scotch-Irish background. It seems the McLeans came down from Scotland in the early years, settled in and around Dublin. I've always sort of looked upon my Grandma Howard--of my family, impressed as I was by her taking me over as a youngster, providing my sinews of war--

Morris: Providing your--?

Harris: Sort of giving me the sinews of war to get along all right.

Morris: That's a nice phrase. You said she worked with her husband. She worked in the teaming business too?

---

*Henning reported he had recently discovered that Charles Sheldon Howard had been a general in the Confederate army and came to California after the Civil War.

Harris: Yes, both of them.

Morris: Did she keep the books?

Harris: She kept the books in a little office on Dupont Street, then Grant Avenue. She was quite a figure in Chinatown. They called her Mrs. Charlie. During the tong wars, they gave Mrs. Charlie protection right down the line. She was vulnerable; she was sitting out there in a little desk in Chinatown. It's a story itself, Mrs. Charlie, which I've written.

Morris: Have you? I haven't come across that poking around in your papers.

Harris: It becomes a part of another story about Alcatraz.

Morris: Okay, I'll ask you that later. I'm interested that they had their business in Chinatown--

Harris: Yes, they had a growing business, very fruitful business. And then they took a partner in called Peck, and the firm was known as Peck and Howard.* I like to look upon the Howard side of the family as a productive one, and I therefore bestowed my indulgences on the Howards rather than the Harrises, of course, due to the importunities of Mrs. Charlie, who was eager to insinuate me into the loins of the Howards. She was really dedicated to me because of the tragedy that befell my mother.

Morris: Right. Did you have any brothers and sisters?

Harris: Yes. She had brothers and sisters.

Morris: Grandmother did.

Harris: Yes. Several.

Morris: Did they come into the trucking business, too?

Harris: No.

Morris: So when you were growing up, you were part of a big family.

Harris: Sort of a nucleus of a big family.

Morris: Were the brothers and sisters younger than your grandmother?

---

*Henning comments that the firm was called The China Dray or Peck China Dray, persumably at a later date.

Harris: Yes. Mary was the eldest.

Morris: And how about her husband, Mr. Charlie?

Harris: Charlie Howard? He was quite an aggressive businessman. They came out of obscurity preparing them of course, and their background, of course, was a wholesome one but it wasn't one of anything of great stature socially. They had a trucking business and it was very productive.

They handled all the China Mail business. The China Mail was one of the biggest shippers in the country.

Morris: China Mail being the steamship line?

Harris: Yes. The China Mail gave them all their business, practically, not all their going business.

Morris: So that when the China Mail boats came in, your grandfather would see to their unloading and the shipping out of all the goods.

Harris: That's correct.

Morris: Was it unusual for Caucasions to work that closely with the Chinese businessmen?

Harris: I questioned that at one time. I think so. I think that socially the Chinese always had a great respect for the white. I know that the paying of the Howards for the services in Chinatown and the shipping services was very fruitful because of the fact that once or twice a year they would come out to 2521 California Street. That was the home of the Howards. It's still there; it was bought by a chain of events and probably highly held now.

Morris: Has it stayed in the family, that property?

Harris: No, it got away from the family. My aunt sold it, and I wish she'd kept it.

Morris: Right. I thought one of the Irish traditions was that you did hold on to land and property.

Harris: My Grandmother Howard was critically ill for a long time before she passed away. I guess my aunt didn't want the responsibility of hanging on to it. But it didn't affect the vital interest of the family at all.

Morris: The Chinese merchants would come out to your house--

Harris: They'd come out to our house about twice a year and settle the accounts. The accounts, I remember very vividly, were all settled in gold. So you can just imagine what kind of a business it was.

Morris: And as a little boy, you'd be allowed to be there, too, when all this was going on?

Harris: I used to ride on the trucks and drive the horses home from Chinatown. You would sit on a thing they called the jockey box. The teamsters were held in high esteem in California, both socially and intellectually and otherwise, because it was a business that was big and going and fruitful.

Morris: And it kept everything else going. It was the lifeline, as it were.

Harris: Yes. He was well-held in the community, Howard was, as a businessman, and as a representative of best interests.

Morris: When your mother died, did your father stay in San Francisco, or did he go down south?

Harris: He remained here, mainly--I would say he remained here practically all the time. His burden was to invest money, which he did--

Morris: You call it a burden.

Harris: Well, it's a burden sometimes.

Morris: Right. Did your father live with your grandfather and grandmother, when your grandmother was raising you up?

Harris: No, she had enough money of her own. She was very important in money matters. I think at times she used to vie with Grandma Harris about money matters.

Morris: That's interesting. And they were both active in the same church?

Harris: Yes.

Morris: The church probably benefited from that. You have two strong-minded women, both--

Harris: Both of them were very dedicated Catholics.

Morris: Do you remember when you would have moved to the house on California Street? Were you still a very small boy, or was that later on?

Harris: I don't remember the dates. I have to get the record.

Morris: When you were still in grammar school, or when you were in high school?

Harris: I went to California Street with my Grandma Howard when I was about four or five. They were already living on California Street.

Morris: You said you used to ride home and drive the horses.

Harris: Yes, drive the horses with the teamsters.

Morris: Were the horses and the wagons stabled there?

Harris: Yes, we had a big stable in the back, in the back of 2521 California Street there was a big stable.

Morris: That must have been marvelous for a small boy.

Harris: Yes.

Morris: Did you help with taking care of the horses at all?

Harris: Oh, sure. Clean the--

Morris: Mop out the stables.

Harris: It was in the nice part of my life.

Morris: I would think so.

Harris: When I went to school, they sent me to the Christian brothers school.

Morris: Here in San Francisco. Was there any question in those days as to whether you'd go to a Catholic school or whether you'd go just to the regular, plain public schools?

Harris: It wasn't over-accented; it didn't amount to very much. There wasn't any hard and fast rule because I think the individuals are seeking a haven where they get the best education. I don't think there was any partisanship about it.

Morris: And at that time the Christian brothers school was considered the better school.

Harris: Oh, continued to be a better school.

Morris: You said that Jack Henning as a cousin had been close for years. Did you go to school together?

Harris: No. He wound up in St. Mary's College, and I wound up at Sacred Heart.

Morris: Did you play together as boys?

Harris: No.

Morris: Were there many cousins around of your own age?

Harris: Not many of my age.

Morris: So did you have many friends your own age in the neighborhood?

Harris: Oh, yes. The usual neighborhood people. I'll take a couple of minutes. [Tape off while coffee and pastry are served.]

These records--the fire burned so many, that the paucity continues to these days. All of the Howard home at 2521 California Street was written up in one of these stories about the old homes. I think the cost of the home originally was $5,000.

Morris: And they didn't build it; it was already built when they--

Harris: That's right. $5,000. Now you can pay about for the same home--it's still there--you should add at least three or four zeroes.

Morris: On your driving the wagon home from Dupont Street, would you be coming through open country at all?

Harris: No, right over cobblestones.

Morris: But the city had grown out as far as the 2500 block on California Street.

Harris: Yes. Fire didn't touch it, because all of the shipping companies put their boys together and developed sort of a team operation in transporting materials from the fire-ridden areas to the more secure areas. So the Harrises were very instrumental in consolidating their forces by taking over the problems of saving a lot of property from the ravages of the fire.

Morris: While the fire was going on?

Harris: The fire was stopped at Van Ness Avenue by dynamite. I suppose it was a good thing, otherwise it would have burned the whole city. I remember we were obliged to remain in the park overnight for several nights--the park at Alta Plaza. They were all cooking out in the open air provisions. They established cooking points. The organization of the people in off-setting the ravages of the fire was generally--it fortified that opinion that the whole thing was well done in the face of a great tragedy.

Morris: Indeed. Would your grandfather Charlie have been out there with his teamster crews?

Harris: Oh, yes. The family achieved a lot of personal enjoyment out of working as they did on behalf of the--

Morris: Did they sort of organize themselves to do what they could see needed doing, or did the military say--

Harris: The military intervened, whether good or bad it will never be known. Sometimes I wonder about it all. But for the record, the military did a workmanlike job, I suppose.

Morris: For a small boy--you would have been six years old. Did you remember it as a frightening experience, or as an exciting experience?

Harris: I remember it as a devastating one, because my grandmother--I remember it so vividly--brought me down to the vantage point of California, right at the crest of Nob Hill.

##

Morris: There are many personal recollections like yours that add to the history of the 1906 fire. I've never heard the very important part of the ship crews getting out there and helping move things to safety, and working with the teamsters and their wagons.

Harris: I remember the trucks coming in loaded with materials from the disaster area. I remember trucks bringing large amounts of barrel whiskey.

Morris: From the fire, or to speed the rescue workers?

Harris: For the safety of it.

Morris: Did they store things in your grandfather's stables? Was that a safe area where they brought things to?

Harris: There were many people put up the whole period of the fire and the quake. The quake itself caused, you know, great tragedy.

Morris: Would your grandparents have been involved at all in rebuilding? Would their offices have been damaged?

Harris: Oh, yes, they built several apartment houses, and generally invested in real estate. They had a corporation called the Harris Corporation, which was very fruitful and very successful.

Morris: That was for development?

Harris: In development of areas.

Morris: Did many people just move out of the city and give up whatever land or anything they had?

Harris: I couldn't answer that.

Morris: You'd be kind of young for that. That was just a fishing expedition.

Harris: I'd have to speculate a great deal.

Morris: The other thing about running a teamster business: when you were a small boy, were the men who drove the wagons part of a union yet. or was the beginning of that going on, do you recall?

Harris: I think union spirit had started to formulate. I don't think it had grown to a point of being a great force in the community. I think the organization came about when the very picturesque union leader--the name escapes me for the moment--took over the destinies of the laborer. There was a labor movement rustling sort of in the twilight. There was a gentleman involved as a leader of the unions who was very picturesque and his name is no doubt well-registered in the annals.*

Morris: Were the people who drove the wagons, the young men, were they considered friends of the family as well as employees?

Harris: I wouldn't know.

Morris: I was just wondering about who let you ride up there on the jockey seat and hold the reins.

Harris: Oh, no. No one could answer that. I looked upon myself as a teamster.

Morris: Of course! But you were what, age ten then, maybe?

---

*According to John Henning, this would be Michael Casey, who founded what is now Local 85 of the Teamsters Union in the late 1800s. See also Sky Full of Storm, David F. Selvin, California Historical Society, 1975.

Grandmother Howard; Catholic Schooling

Harris: Probably. Ten or eleven. I remember an incident that might be recorded. My grandmother was not satisfied with the public schools--Grandma Howard. She wanted better schools for me, because she felt that I had some talents. She learned the Christian brothers were great educators, so she sent little George over to be educated by the brothers. Not too long after this, I reported that I was going to be a Christian brother, and that I was going to the seminary for Christian brothers. She said, "You'd better let me check with Brother Thomas." She got Brother Thomas over, "This boy tells me he's going to be a Christian brother. Have you ever heard him swear?"

Morris: [laughs]

Harris: And he said, "He swears like a teamster." Needless to say, I never became a Christian brother.

Morris: I see. Brother Thomas didn't approve of that?

Harris: No, my grandmother wouldn't approve.

Morris: She didn't think you should--

Harris: No. She felt that she'd lose me. She looked upon me as potential. She had a great love of family; she was a great lady. Mrs. Charlie.

Morris: What did she hope for you?

Harris: Well, I was always writing small talk plays, and, like all the Irish, she was whimsical and had talent in that direction.

Morris: She liked to write herself?

Harris: She wrote quite a lot of studies. Jack Henning may have some. I did have that article that appeared in the paper about her, about 2521 California Street.

Morris: Is Mr. Henning the family historian? He's been gathering, keeping all these papers together?

Harris: Yes. He's spent an awful lot of his time. He's also identified with the Irish societies.

Morris: Were the Irish societies important to your grandmother and grandfather?

Harris: I don't know.

Morris: You don't remember them.

Harris: No.

Morris: How about St. Patrick's Day, when you were a boy growing up?

Harris: I don't remember.

Morris: It wasn't the great festival that it's become.

Harris: No.

Morris: Did your grandmother read to you?

Harris: Oh, yes, I read to her and she read to me.

Morris: How nice of her. What kinds of things did you read to each other?

Harris: Plays.

Morris: Plays, even as a little boy?

Harris: Yes, even as a little boy.

Morris: Shakespeare?

Harris: When I went to the Christian brothers they provided teachers in drama; and later on I had the opportunity to study under Brother Leo, who was the foremost scholar on Irish history and Irish tradition and Irish plays, everything Irish. He taught at St. Mary's College.

Morris: That's in San Francisco.

Harris: Yes. He was considered and still is considered one of the foremost authorities on English literature in our schools.

Morris: And there was actual coursework on Irish studies, as it were.

Harris: That's true. The societies even now have considerable interest in Irish studies.

Morris: The Irish societies.

Harris: Yes. Jack could give all that information.

Morris: I think of much of the Irish studies now as something that's started fairly recently in response to the troubles with England, though heaven knows, those go back a thousand years! But the Irish studies that you had with Brother Leo, were those part of a literature course?

Harris: Shakespearean studies, too.

Morris: Were those part of a literature course, or a history course--?

Harris: Brother Leo made lectures at given times. He was probably one of the foremost English scholars in the West. He left the teaching order and was living in southern California when he passed away.

Morris: Had he retired, or had he gone on?

Harris: No, he was still continuing his writings. He had a very picturesque place. I have some of his writings that he engaged in then.

Morris: Did you go down to visit him when he moved to southern California?

Harris: Yes, a couple of times. He was a very, very interesting man. Lived the life of a recluse, sort of.

Morris: And he encouraged writing as part of your schoolwork?

Harris: It was part of the curricula, but I think he gave it vitality and meaning, and he was able to instill in quite a few people a love of literature that otherwise they wouldn't have had.

Morris: Do you remember particularly any friends of those school days, or people whose talent you admired?

Harris: Yes, I do; but most of them are gone.

Morris: Did they also continue a love of literature and writing in their later lives?

Harris: Oh, I'm sure that in an academic sense they did. [pause]

Morris: Was the neighborhood pretty much Irish families on California Street?

Harris: Yes, in the main they were Irish. There were a few Italians. The Western Addition was considered to be a respectable area. And property values were centered more as the development--Western Addition--took on a rather picturesque part of our community. The architectural designs had a certain metaphor.

Morris: Did your family continue to go to the same church, the big one down in--

Harris: St. Dominic's. My Grandma Howard was a daily communicant, went to communion every day of her life at the sisters' school at St. Dominic's church, right down two blocks from here.

Harris: My Grandma Harris was a devoted Catholic, and gave an awful lot of money to the church.

Morris: But not just to St. Dominic's?

Harris: She gave it to the Spanish church down in North Beach. It's on the hill--what's the name of that street--the church is still there--

Morris: Columbus.

Harris: Yes.

Morris: That was considered kind of what, charitable work because the people in that district needed help?

Harris: No, it was a growing community and a haven of many businesses--productive business. It wasn't an outcast type of thing.

Morris: It sounds as if religion were an important part of your daily life as you were growing up.

Harris: Oh, part of my whole life.

Morris: Were the brothers in school also concerned that the students would grow up and be involved in the life of the community?

Harris: The brothers were constantly at pains to produce leaders. That was the purpose of educating an individual, so that he or she might perpetuate the ideals in permanent form. [pause]

Morris: Now we've got your grandmothers both active in the church; how about your grandfather? Was he active in politics in the city or other kinds of civic affairs?

Harris: I imagine Charlie Howard was. Grandpa Harris was a--I don't know how to describe him, because I never recall seeing him, so it wouldn't be fair to describe him. I didn't know him. I'm sure that my views would be prejudiced by the influence of my Grandma Howard. [laughter] As I say, my sense of her is of an aristocratic person.

Morris: I know the sense you mean. Could you describe it a little bit, the feeling that your grandmother was an aristocrat?

Harris: Like many women--being sensitive to their photograph and reproduction of it. Why can only be answered by people more versed in the psychological impact of the situation. [pause] What was the question again?

Morris: About your grandmother being an aristocrat--your sense.

Harris: Oh, yes. It's curious that Mrs. Driscoll* had a similar grandmother, though I think she was more vocal in her views than my Grandma Howard. But they both came out of the same areas; they both voiced the same sentiments as I recall; they both were people who raised not one family but maybe five or six families.

I thought nothing about it. They were sort of God's noblemen in that area I think. They sent people out into the world--that's the Christian brothers' philosophy and training. I'm steeped in it. They sent people out into the world prepared to meet emergencies and prepared to meet the philosophical tenets of many of their neighbors, and carry the Catholic faith. They're really free to a high standard. I think, without becoming strident about it, I think that the teaching of the Christian brothers, as well as the Jesuits--I was trained under the hand of the Jesuits, too--has been a great force in not only local communities, but nationally and internationally.

Morris: In relation to the importance of a sense of service, and participating in the broader life of the community, in addition to one's own realm?

Harris: Yes, in the social life and the intellectual life of the community. They've been trained to play that part; some of them do, and some of them don't.

---

*Patricia Driscoll, the judge's longtime secretary who sat in on the interview.

II EDUCATION AND OTHER INTERESTS

Work and Law School

Morris: I understand from several of the articles I've read that there was some question that you might seek a career as a writer, or an actor, instead of the law. Tell me about deciding to make your career in the law.

Harris: Would you mind repeating that?

Morris: That was long winded. Tell me how you decided to go to law school?

Harris: I always wanted to be a lawyer, ever since I can remember, because I met quite a few lawyers around my father. He was a litigious type of person.

Morris: Was he?

Harris: Yes. And I met lawyers upon lawyers upon lawyers. Lawyers sort of fascinated me.

Morris: Why?

Harris: I don't know. They seemed to know everything about everybody, and without being pretentious, they seemed to get along pretty well. Intellectually I thought the law was a great field, and that I might pursue it some day. One of my father's lawyers was a very lovely gentleman, scholar, Irish, and became quite successful as a trial lawyer. I used to play tennis with him as a youngster.

Morris: Was that Gavin McNab?

Harris: No, this was--McNab didn't take time off to play tennis.

Morris: I was wondering about that.

Harris: No. This gentleman was a scholar. I'd play tennis with him, and then we'd go and have coffee or something. He was the first one that really gave me confidence that I could be a lawyer. He was a gentleman among gentlemen, and he was a scholar. He and Brother Leo, I think, were the two instrumentalities that decided my career.

Morris: Who was the tennis playing--?

Harris: The name escapes me. I can go back in my memory, maybe.

Morris: All right, because I'd like to know what his name is. He sounds like a marvelous gentleman. Tennis playing! Would this be grass courts?

Harris: I lived right near the California Lawn Tennis Club. I used to chase tennis balls so that I could play there. You notice in the professional field of tennis, they have a little kid that will run out into the tennis court and pick up the ball and run back.

Morris: Very fast.

Harris: That's what I was doing. I learned under the tutelage of some of the best players in the world, who played at the California Club.

Morris: I'd like to hear a little bit more about your father as the--

Harris: My father was a dapper young man. He was a sportsman: he loved to fish and hunt. He liked business if it didn't interfere with his social activity. [laughter]

Morris: Were you able to spend much time with him?

Harris: No. Whatever love and devotion I had I gave mainly to my Grandma Howard.

Morris: You were fortunate to have such a woman around.

Harris: Well, they gave an awful lot of themselves.

Morris: How did you go about law school in about 1914, when you were ready for law school?

Harris: There must have been a focal point in there where I--oh, yes, I recall. I went to work for one of the brokerage houses.

Morris: Blyth-Witter?

Harris: Blyth-Witter. That was one of the first offices Blyth-Witter had. And I happened to know one of the employees, and he was likewise interested in law, and intended to pursue it as a career. So we worked during the day and studied at night. St. Ignatius then had a night law school, and I went to work for them.

Morris: At some point--and I don't know how long it was before this--one used to become a lawyer by reading law in somebody's office. At what point did that move into a more formal law school kind of a curriculum?

Harris: The reading of law in an office was the one main avenue of approach to becoming a lawyer before the law school became as dominant and predominant as it is today; it was useful as an instrumentality for a law school. A night law school today will deliver to an industrious young man an opportunity to practice law where otherwise he'd be denied. In the olden days, the turn of the century and other, we had many, many very able lawyers in San Francisco. It was a mecca for ability in the law. The land problems were replete with [issues] in the law. The law firms were large, identified as such, and carried with them an impact of confidence in the community as a whole. Night law school was not held in the derision it was at one time.

Morris: No, I'm speaking of it with respect. I think that tradition of working while studying is a very valuable one.

Harris: We carried on, and then I went to work for Hunter Dulin and Company. [spells it] I occupied a pretty good position for a young man.

Morris: Was this a banking firm?

Harris: Yes, banking. I met a gentleman by the name of Stuart. He interested me in finance. I used to remain with him in the late afternoon after we closed shop, and he'd point out to me the benefits of study in the investment field. I took special courses upon special courses in the investment field.

Morris: There was also a reference to your working on some of your father's ranch holdings.

Harris: Well, some of them were pretty tenuous at that time. You see, just to give some explanation to it, when you speak of land holdings, he had big chunks of land in Kern County. It was decided to drill for water on most of the land, so that the land could be useful for irrigation, and in turn useful for the raising of grain and rice and so forth. So it was an experimental thing. Instead of making money, it lost money, due to the adventures of irrigation.

Morris: Adventures?

Harris: Adventures in irrigation, because of the irrigation problems, centered around--technically a salt solution snuffed off the grain and snuffed off the small rice. So it was a dangerous venture, and my dad got into it and lost.

Morris: But you actually did some work on those ranches?

Harris: Oh, yes, I went to work because I had to. I had to have some food.

Morris: Right. It's essential. No matter how bright you are.

Harris: Sure.

Morris: Did you work on some of the water drilling efforts?

Harris: I went to work for the Kern County Land Company.

Morris: Did you take care of the cattle on some of the ranches?

Harris: I was employed by H.A. Jastrow, who managed the company for the Tevises. He was the political boss of Bakersfield.

Observations of the Tevis Family and Kern County Land Company

Harris: Willy Tevis was one of the finest horsemen anywhere. Occasionally he would come down and he would go out and break the most troublesome horses.

##

Harris: Gordon Tevis became a very close friend of mine, and I was telling him the story of the Kern County Land Company, and his brother, Willy Tevis. He said, "George, I don't believe you. How could you wind up down there? What were you doing?" I used to tell him the story. Poor Gordon's passed away now.

Morris: He didn't believe his brother would break the troublesome horses?

Harris: Well, I could ride from the time I was a little fellow. My father would take me riding. Horses were part of my life when I lived at California Street. I had my own horse there; I used to ride every day. So riding was not a novelty, but it was a novelty to see the operation there. I became kind of an assistant to somebody--I don't know who it was. They made me very comfortable. Why don't we take a five minute break? [tape interruption]

Morris: You were breaking horses with Willy Tevis and learning the cattle business and the land business--

Harris: I saw the last of the West go by, in terms of the cattle buyers.

Morris: They used to come out from Chicago?

Harris: The cattle buyers would visit the Stot Veer ranch where the--what do you call a slaughterhouse when you don't want to call it a slaughterhouse?

Morris: Abattoir is what the French call it.

Harris: Yes. Abattoir. Providing meat and other sundries for Bakersfield and Lost Hills. [closes eyes to remember]

Morris: Would the cattle from the Bakersfield area go east to Kansas City and the Chicago meat packers?

Harris: No. Put it this way. The Kern County Land Company was then the biggest project of its kind in the West. The activities were then oil, ranching, and general farm operations.

Morris: You would have also had personal experience with the water problems of California in watching your father's land.

Harris: Not in an active sense.

Morris: Kern County was not doing any irrigation in those days?

Harris: No. Let me say that I was not engaged in any business activities with Willy Tevis. His family, a renowned one in the state of California, was identified [pause]-- The Kern County Land Company phase of the story--I want to be absolutely accurate, and I don't want it to fall over and spill itself.

Morris: Because there were later some questions about the company itself?

Harris: Well, no. The Tevises had a very sensitive area that I'm going into. The Tevises at one time owned all of the property, and through mal-administration and through bad luck, they lost most of the holdings, save and except certain ranchos--including certain ranchos which were signed over to the Tevises as a home place for them. In short, through bad luck, I suppose, and disadvantages which were--pause-- They lost the land through the indolence of the land owners, which was not unusual in California. The day of the aristocracy and the cattle barons and so forth was one that was short-lived. The impact of the economy was such that people could not live under the standards that they were attempting to live under. Many of them were families of aristocratic background, both in the Spanish, Mexican, and other fields. The bad fortune of some of those families was visited upon them to a point where most of the large holdings were dissipated and cut up into smaller acreage.

Harris: Willy Tevis was never an intimate of mine, but I did have the advantage of riding with him. On Sundays, he would invite his society friends to watch him disport himself on very, very difficult horses. He was a horseman of rare opportunity and a horseman of great reserves. He generally conducts a yearly ride of a hundred twenty-odd miles in northern California. I don't have any more to say about it.

Morris: That's a valuable insight. I was wondering if you saw the Tevis family and their large holdings originally as similar to some of the Spanish land holders, and those large ranchos that they held from the Spanish government? Do you think it's part of the same culture?

Harris: It's part of the same--it might be called a phenomenon, I suppose. It's part of the same phenomenon, that the large holdings that I saw gradually dissipating themselves, that the large holdings were being slowly evaporated, and that by merger and other legal forms, much of the properties held in great esteem were lost to the ordinary businessman.

Morris: The original family generally was given some acreage and compensation. The story of the Kern County Land Company is a terrific story in itself, and it's a story that's never really been told.

H.A. Jastrow--the story goes in Bakersfield that he stole so many sheep that they had to make him president of the land division so that he could steal more sheep. [Morris laughs] So that's the story that goes about H.A. Jastrow.

Morris: Did Mr. Jastrow continue on and remain an official in the succeeding organization that managed so much land down there?

Harris: He had a great executive officer with him, and I think he left the details to the executive office. I wouldn't want that published with respect to Jastrow.

Morris: Well, the stories that have common currency are valuable to the historians as long as they're clearly labeled "This is the story that used to be told."

Harris: I think in the treatment of the land company that my familiarity with it was rather removed, and editorially, I would want to temporize before using it. The story is an integration of politics--cruel politics--and--

Morris: And you said economics changes the realities.

Harris: Economics couldn't withstand the inroads of the channels of activity that the opposition engendered, because they simply represented two different philosophies of life. The land barons, the rich Spaniards, Mexicans, the whole vivid picture is one of the practices that were engaged in in order to satisfy the caprice and the needs of goodness, I suppose.

Morris: Sounds like you have a partisan feeling for one side or the other.

Harris: Well, the Kern County Land Company is a story that has been told and retold and told and retold, and I suppose it's part of the [pause]--

Morris: If you had been running the world, would you have liked to have seen the family able to continue its holdings and management?

Harris: Which family?

Morris: The Tevises.

Harris: Yes, I thought they were shabbily dealt with.

Morris: Did you ever have occasion to have a case relating to all this come before you?

Harris: No; although I did have cases involving some of the picturesque families in California, some of the vivid fights over land titles and so forth. But never any activities that could be considered controlling it. Do you think we've covered it?

Morris: I think we've covered ample for today. I don't want to wear out my welcome at all. Thank you very much.

Harris: That's all right. Your welcome will always be warm.

Studies at Sacred Heart; Theater Experiences

[Interview 2: April 23, 1980]##

Morris: My notes tell me that you graduated from college in 1919.

Harris: I graduated from college in 1919.

Morris: Just before your eighteenth birthday.

Harris: I was born August 16th, 1901.

Morris: So you would have been seventeen.

Harris: I would have been seventeen, yes.

Morris: That's pretty young to finish college. Was it an accelerated course?

Harris: Let me try to recall it. Sacred Heart had a special course. I think it was two years of college more than the ordinary high school. I think that they had that during the time that I was there. At least I took special courses too, including the usual college courses. The composition of the curriculum of Sacred Heart was more advanced than any high school in the West, as I recall. They had a specialist in every field. When you graduated from high school at Sacred Heart, you really graduated from junior college. That's about the best answer I can give you.

I think they terminated that mode of definition around or about that time. So that it would be unfair to say that I just had the benefits of high school. I took special courses of different kinds under Brother Leo--that was in English. I took special courses in Latin across the street from the high school--

Morris: With a special tutor in Latin?

Harris: No. The members of the Latin class had to cross the street to go to the Latin professor's quarters. It was an old rule of Christian brothers' teaching that they could not teach Latin. I'll ask you why and you can give me your best answer--I don't know why.

Morris: But they made it available to you.

Harris: They made it avilable if you cared to walk across the street.

Morris: That's an interesting solution to the problem.

Harris: That solved about a year or two on my age and so forth. But there were many things in education that you know perhaps more than I do that explain anything you want to explain.

There was always a thought generated that Sacred Heart was a school apart. It was quite a different high school; it was quite a different college. It had a hybrid relationship of some kind that I've never been able to divine.

Morris: It was set apart, you mean, from the other Catholic schools in the city?

Harris: It was set apart intellectually, not so much physically. But your questions are valid, because that was the first thing that you picked up. Your observations are valid. But it didn't depreciate from the rigor of the high school, and the additional year or two that was added on.

Morris: Was it strongly classical in its teaching? Did it stress the classics? Greek and--

Harris: Yes, they centered on a classical curriculum pretty much. In drama--they had a special course in drama. Brother--

Morris: Brother Leo?

Harris: Brother Leo was at St. Mary's. They had brothers--I have to say brothers because I can't specifically recall their names. But they had brothers in drama, elocution, production of plays, and things like that. They had the benefit of a group of very advanced teaching brothers. Although I didn't pick up too much in drama, they did give me a kind of a head start.

Morris: It sounds like it was a pretty complete theater program.

Harris: Well, not complete, but it gave an appetite to those that wanted to enjoy that type of training.

And the discipline in literature--we were benefited by the classics, and there were many men then teaching that I dare say were far and above and advanced of some of the teachers of today.

Brother Henry, for instance, taught English literature, and he studied in Europe. He received donations from the student body. There were a couple of wealthy boys, and they picked up the chit on several trips for the brother. Brother Henry. He's one I can remember. That's about the general answer that I can give you.

Morris: Would this have been your first acquaintance with theater?

Harris: No. I had an acquaintanceship with theater going back to the Garrick Theater on O'Farrell Street in San Francisco. I used to go in there as a youngster when I was--I don't know how old I was, but I wasn't too old--with a fascination for the theater. It seemed to be bred in me, and I can't attribute it to any affiliation with family or creed or whatever. It was just in me and I had to get it out.

In an English literature course, we produced Shakespeare. We produced drama in accepted forms. There was a contest of some proportion every year in English literature, elocution/play production.

Harris: You'll find at my home in the library--you'll find three medals: Christian Doctrine, which I won; Irish literature, which I won; elocution, which I won. I pride myself on those particular acquisitions because it was demonstrative of the fact that I did have some talent, because I couldn't just walk away with it at Sacred Heart. I did have some talent, and that talent was recognized by the brothers. Call it whatever you want to call it. But they recognized it, and they propitiated it, and attempted to give it momentum.

As an illustration: the elocution contest was a superhuman effort on the part of the boys. They selected plays somtimes quite beyond their capacity. Each boy was recognized as having some background. One was considered by the staff, and you made your own selection, either under the supervision of the brothers or independently of the brothers. That contest was held in the auditorium, Aurelia. Maybe fifteen or twenty boys competed in the preliminaries, and then it weeded down to the final. I remember I won on a translation of The Burgermaster's Dream. That was a classic played by a very eminent Shakespearean actor. Burgermaster's Dream; it's about the murder of an innkeeper. It's a very difficult piece. It wouldn't ordinarily be achieved except by a highly placed professional. That was the only assignment that I took.

Morris: You chose that yourself.

Harris: I played it. I played three scenes out of the text which I wrenched out myself, and I interpolated my own material; I gave an adaptation of The Burgermaster's Dream, which was one of the classics exhausted by the playwrights and by the actors of that period.

My brother--I mean my Christian brother; they were very close to us--he said, "George, where did you get that material?" [referring to what I had presented.] The author was Erckman Chatrain [spells it]. He said, "Where did you get the material?" I said, "I just took it from the text and borrowed some of the author's material." He said, "It's perfect. The adaptation is perfect."

So I kind of gained confidence. They propitiated me. They obtained me my head. And I guess I didn't realize then that I had the makings of a fair-going dramatist.

Then I used to sneak into the Garrick Theater. [laughter]

Morris: By yourself, or did you have others--?

Harris: By myself. I'd go to the rehearsals.

Morris: Oh, that's the best part, I think.

Harris: I'd go to the rehearsals in the Garrick Theater, and they looked upon me as a member of the cast for a while. I was giving out orders, and--[laughs]

Morris: Oh, that's lovely! Did you have a friend who let you go backstage?

Harris: Yes, there was a stage manager who liked me. But I was a brassy little guy, [Morris laughs] but he liked me. I forget his name now, but he was very kind to me. And any dress rehearsals that were acceptable to our type of production, he'd let me know. I had a kind of an inner sanctum pass from the stage manager.

Morris: How absolutely heavenly for you!

Harris: I remember men like Burfick Hill, Bessie Berrescal, Howard Richman--men of great stock in those days. They were admirable actors. Burfick Hill was a beautiful actor. I gained the benefit of associations with men like that. I didn't have any Bohemian Club to run to, but I had a very good source of training and discipline quite by accident.

Morris: I should say so.

Harris: That's a statement that's rather hard to explain to a person, but knowing the theater as you do, generally, as I do, you understand that there are people like that in the theater who love to help the other. So the unorthodox becomes the orthodox.

Christian Doctrine; Debating Society

Morris: You said you also won a medal for Christian doctrine. At that point, was Christian doctrine or elocution and theater more important to you?

Harris: They were part of the regime. Christian doctrine, of course, could not be forgotten, for the simple reason that it's Catholic education. I didn't place Catholicity to the front by any orthodoxy or any type of exclusion of other areas of thought. In short, I'm trying to say the brothers were advanced teachers and have been advanced teachers since the day they picked up the little poor kids on the streets of Paris. That was their source of supply--the little French kids without family, many of them, were educated by the brothers.

Morris: And they were a well-established school here in San Francisco?

Harris: Oh, yes, well, it's been going back to the eighteen-eighties, teaching some of our brethren of that era. I'm very much impressed and have been over the years with the brothers' doctrines and mode of life. There was a time when they ran out of individuals to pursue these courses because they were very vigorous. It's a vigorous life. You'd go to the seminary, and just as useful as the life pursued by a Jesuit priest. Jesuit priests currently are regarded as some of the finest educators in America, not surpassing, of course, some of our more distinguished institutions. But that's about the generalization that I place upon this type of education, often, by the brothers. That's about it.

Morris: Did the Christian brothers stress different kinds of tenets than the Jesuits?

Harris: Let me see if I understand that. Did they take what?

Morris: Maybe a simpler question is: How did the Christian brothers differ from the Jesuits in their methods of teaching and the things they felt were important to teach?

Harris: I think the Jesuits probably have the more advanced courses in philosophy and psychology and not departing from the Christian doctrine they forthwith give you on entering their portals. The Jesuits like to think that they have the finest teachers in the world, and there's some merit to it, I have to say. Their teaching courses go back many, many years; their rituals go back many years; and the disciplines are such that they have a chance to educate the youngster who's willing to partake of their formula of education. That's about the best I can say on that subject.

Some of the great scholars of the West have been graduates of not only the Christian brothers, but the Jesuit school as well.

Morris: Who amongst your classmates were your particular friends at Sacred Heart?

Harris: Some of them became priests; some of them became executives in business; other became lawyers. Many lawyers came out of the loins of the Jesuits.

I think it would be a mistake if I limited my observations to a particular group or a particular name, because it isn't an isolated problem. The problem is one that almost answers itself. These men are dedicated; they have certain privations that they suffer. The discipline of a Jesuit priest is one thing; the discipline of a Jesuit teacher is quite another thing, and sometimes they blink, sometimes they don't blink. That's easy to observe.

Morris: I've got a couple of other questions about Sacred Heart before we get to law school. Were you in the debating society in college at Sacred Heart?

Harris: Yes. Debated Los Angeles; debated on a coast basis--colleges and universities.

Morris: Did that take as much of your time and effort as, say, the elocution?

Harris: Debating, of course, is a special art form, and some achieve goals for success, others not, like any other competitive intellectual pursuit.

I remember one occasion--and I'm not trying to be facetious at all--but we debated Los Angeles on one occasion--one of the universities. We always felt that the judges of the debate--three superior court judges for Los Angeles--gave us the business, but I'm not that sure that we were correct. I think we were merely a bit chagrined at losing.

Morris: It would seem that they could have gotten somebody from another place than Los Angeles.

Harris: Well, maybe so. I wouldn't want a revival of a debate with Los Angeles now.

Morris: Was the debating society an extra-curricular activity?

Harris: Yes.

Morris: One that you enjoyed?

Harris: Oh, yes. An intellectual challenge, and the topical subjects were interesting, demanding, and sometimes unanswerable.

Morris: Would you boys work out the topics for your debates?

Harris: Mostly, yes. Subject to the approval of the staff.

Morris: Do you recall some of those topics?

Harris: No, I can't remember any.

Morris: You would have been finishing up at Sacred Heart while World War I was going on. Did many of your classmates go off and join the military services.

Harris: Yes. Perforce, some of them, others voluntarily.

Morris: Enough so that it made a difference in the life of the college?

Harris: Oh, no.

Morris: Did World War I have any particular noticeable effect on your life here in San Francisco?

Harris: No.

Morris: Last week when we were talking, you were telling me about your years working in investment banking and in ranching in southern California.

Harris: Yes. Those were not major achievments, they were a means to an end.

Morris: Right. You spoke of it as kind of a clearing the cobwebs out of your head time.

Harris: Well, not only that, but picking up a check that would help me pay my expenses.

Morris: While you were working down there, were you planning on coming back to San Francisco and going to law school?

Harris: Yes.

Law School or the Priesthood

Morris: How seriously did you think of maybe choosing the theater as a profession rather than the law?

Harris: I don't follow that question.

Morris: Part of the time, did you have some thoughts that you might prefer a career in theater?

Harris: Oh, yes. All of the time I did. It was always crowding everything else out of my life. I had to live with it, and I think I survived the inroads of my knowledge of the theater. I read as best I could, everything on the theater--productionwise, and later I got into Actor's Workshop. That was a real achievement.

Morris: I'd like to talk about that a little bit more when we get up into the 1940s and '50s. Did you make a conscious decision to go to law school rather than to stay in the theater?

Harris: Yes, I did, because I felt that the theater, however gratifying to me in my hope that I would someday achieve some minor degree of success at least--I realized the practicality of the law career.

Harris: The theater is not a very good source of revenue, particularly when you're young. The pay is not too good, unless you be a high-standing artist. I made a choice, because I felt that I needed the support of, not only the theater intellectually, but the sources of supporting my interest in it.

Morris: When you came back to San Francisco, was there a place waiting for you in the law school?

Harris: No, it was very difficult. I went out to see the priests, and they had closed down the registration, and apparently I had missed a year or two by that circumstance. I just wasn't here on time. I was very much upset about it. I went out and talked to Father Simpson. He was an Englishman, full-blown Jesuit priest, and a very understanding soul. He wanted to know my whole background, and I told him my background, so he called St. Dominic's church, and he talked to the priest in charge, explained my whole situation. They both decided to lift the veil of the curtain that had swung down on me, and to grant me entrance. So there was the first illustration that maybe the gods were with me. I was elated, of course. My record was such that it was all an "A" average record.

Morris: That's a pretty good average.

Harris: I felt that under all the circumstances, I owed that to the two men who believed in me. They followed my career right up to Father Simpson's passing. I was at his services when he passed away. They were great men; they gave me an awful lot, and I'm eternally indebted to them.

The priest at St. Dominic's church said, "Oh, yes. He was an altar boy here, one of the best boys we had."

Morris: He was your parish priest?

Harris: Parish priest--Father Lewis.

Morris: St. Ignatius called your parish priest for a recommendation--

Harris: I served on the altar with Father Lewis for many, many years as a youngster growing up. I think I was about six years old when I first went on the altar. I lived so closely to the Dominicans that I became imbued with their mode of life.

Morris: Was being an altar boy a chore or was it an honor?

Harris: It was an honor. There was one feature about it that was rather difficult to explain. Father Lewis was a great orator--Father Reginald Lewis. His name goes down in history in the Dominican

Harris: order. He was one of the greatest orators in the world, I guess, if not the United States. He could have been an actor on any stage, on any stage would have held his own. He took me under his wing and I studied under him.

So there were forces at work, probably--I'm not speaking spiritually now--but there were forces at work on my career--I can now visualize them in going back--that were designed by some hand greater than my own, to give me the benefit of education that I would not have received but for these very generous men.

Morris: It sounds as if they saw you as a promising young fellow and saw their responsibility to encourage you.

Harris: They also somewhat vigorously pursued the idea that maybe I'd join the order.

Morris: I see. They had hopes that you might become a priest yourself?

Harris: Sure. Not that I had the moral distinction. [laughter]

Morris: They say that some of the best priests are reformed reprobates, don't they?

Harris: I kind of limped on as decently as I could under all the circumstances.

Morris: I can see where one would with so many different orders--

Harris: It's a pretty high standard for a young man.

Morris: Yes. Keeping an eye on you--you'd have them all as good examples.

Harris: That's right.

Morris: Let me turn over the tape.

##

Morris: You were talking about the possibility of going into the priesthood.

Harris: Well, like the Christian brothers gave me many reasons why I should join the brothers. The [Jesuit] priests were not as rigorous in their pursuit. They did not discuss it with me very formally, and I told them the reasons why I thought I would not make a good priest. I was very forthright with them. And I wouldn't have made a very good priest, I don't think. Maybe I would have. As long as I had teaching and as long as I had some intellectual challenges--but to be farmed out to some area and conduct the parish duties of a catechism class or something like that wouldn't appeal to me. The administration might, but I didn't feel I was equipped to pursue a career of such high demands. I told the priests that I didn't feel I had the material they were interested in.

Morris: How about in terms of your personal life?

Harris: What do you mean, my personal life?

Morris: Whether or not to remain celibate and have no married life--

Harris: I don't think that had much to do with it, no. I think that whole problem is badly handled. I can see no reason why a priest shouldn't marry. (I hate to get into a lot of subjects that we [the court] wouldn't be interested in.) I think some day in a more enlightened era, some of these things will be clarified.

Morris: That's a very positive thought.

Harris: Maybe through papal distinctions that I believe will be made by our present pope. I think his attitudes are challenging. I'm satisfied that in his own acute way, he's going to resolve a lot of the acute problems with a very deft hand.

Morris: Are you suggesting the possibility of different classes of priests?

Harris: Not necessarily. They have parish priests; they have those that they send out in exhaustive trips to indoctrinate others. I don't think there'll ever be a distinction fundamentally in priesthood. I think there may be classifications that would somewhat denote the capacity, but not to any degree of impingement of conditions or classifications that are valid. You're getting into high ground here.

Morris: Oh, but fascinating. One of the questions I was interested in was whether church law was a part of the law school training at St. Ignatius when you got into law school?

Harris: Well, I think that--I don't want to sound that I had characteristics that were extraordinary, but I exhausted myself in trying to gain the highest form of education I could. That went back to my Irish grandmother, when she'd sit with me at night and I'd be writing plays and so forth, she'd listen to me, and she always said, "George, you never have to carry the learning on your back." I kept that as a thesis.

Morris: That's one of those cryptic Irish sayings that you can think about for a long time. Was her meaning that if you had an education, you wouldn't have to carry bricks on your back--be a manual laborer?

Harris: I loved her dearly, this woman. I loved her beyond any possible reason. The love was a devotion that was difficult to understand, probably.

Morris: Except that it was mutual.

Harris: Oh, sure, it was mutual. She took me when I was three or four--four, I guess, when my poor mother passed away. I looked upon this Irish lady as--she wasn't Irish in any sense of vaudeville Irish or anything but classic. She read the classics, she was well-educated, as most of the family were. They cherished literature; books were a religion. And that background was integrated in all the other forces that worked on my career.

Morris: How did your grandmother feel about your becoming a priest? Did she think that was something you should do?

Harris: She never discussed it at the same length she did to the brothers. She never discussed my going into the priesthood with any vigor. I think she would have approved it as an honor on the family.

Jack Henning, who's my cousin, I regard as an intellectual. He's held high office in the labor movement all throughout the world. I think to a degree we have a parity of appreciation for literature and other classics.

Morris: When did you and he become friends. Did you go to school together at any point?

Harris: No, no. He went to St. Mary's, graduated with honor, and then I think he taught for a while. Then he went into the labor movement, and has written some of the classics of the labor movement. We're very close personal friends.

Morris: When did you become close friends?

Harris: When we were both charged with the responsibility of representing large forces and people. We often exchanged views.

Morris: So it was through your adult professional concerns that you really came to know him?

Harris: Throughout my adult professional life I very often talked to Jack.

St. Ignatius Law School

Morris: Going back to law school: what subjects appealed to you most?

Harris: I would say the courses that appeal to me are those that are integrated with the business aspects of the problems. The abstractions in the law never intrigued me, but I sought from time to time results that would be practical, legible and understandable without the high philosophical--

Morris: The law as a means of solving problems?

Harris: I looked upon it as an interesting instrumentality, to be used sparingly at times. [laughter]

Morris: Is it your feeling that sometimes the law is invoked too much? Too many people go to law, as it were?

Harris: I think so too. I don't think you have to be very deep into problems to understand that.

Morris: St. Ignatius had not yet become the University of San Francisco.

Harris: That's correct.

Morris: But it was already a Jesuit institution.

Harris: Yes. I saw the transitional period. I became a member of the board of governors in marking out the transitional period.*

Morris: You would have been instrumental then in discussions?

Harris: There's no question about that. But later on those officers preforce get into the fundraising activities, and we had a pronouncement from Washington that federal judges are not to interest themselves in the raising of money for private enterprise.** So I was foreclosed from raising money, although I had in the past, in various enterprises, raised considerable money for hospitals and the like. I accepted the pronouncement and edict with grace as best I could. But I don't believe in it.

Morris: Those pronouncements for what? The Judicial Conference? Who made the pronouncement that federal judges would not--?

---

*Judge Harris was a trustee from 1971 through 1975.

**Presumably this is the American Bar Association Code of Conduct for Judges adopted by the U.S. Judicial Conference in 1973. In The Recorder for May 13, 1974, Paul Speegle wrote that a California Conference of Judges committee was working on modifications for this code. A mail poll indicated that judges were satisfied with the code except for the areas of political contributions and charitable activities; that the proposed prohibition of all political contributions of charitable activity would prevent a judge from attending a fundraising dinner. A redrafted canon was being considered which would permit a judge to attend such a function and introduce a guest speaker, but not to be the guest speaker.

Harris: It became legislation.

Morris: As part of political reform legislation?

Harris: I don't know what the thinking was, but I know that it was not too well-received by the general--

Morris: By the judiciary in general?

Harris: Generally. I needn't state the reasons.

Morris: How long was the law school curriculum while you were there? Was that a three-year course?

Harris: No. Four years.

Morris: Was this all a law curriculum, or was it also some general education too at St. Ignatius?

Harris: Oh, yes, general education and the formal--accounting and other subjects like that.

Morris: So the law curriculum was part of the general curriculum, or was there a separate law school?

Harris: Separate law school. Their standards were pretty high. Their teaching forces came out of the business world.

Morris: Was this your first acquaintance with teachers who were not priests?

Harris: Yes.

Morris: Did you find them a different kind of teacher?

Harris: No, I didn't find too much difference. Most of the men coming into the fold as teachers were well-educated at different universities. The standards were very high.

Morris: Did they teach part-time and also carry on law practices?

Harris: Not too much part-time, no.

Morris: Was this all at night school, or did you spend some of the time as a day student?

Harris: I can't recall now. I may have; I don't remember.

III BEGINNING A LAWYER'S LIFE

Student Clerk and Bar Exams

Morris: The chronology we have has you starting to work as a law clerk for Mr. McNab about 1924.

Harris: That's about right. Of course, that supplied me with the background that I wouldn't have achieved had I been a graduate of any famous law school, or any law school worthy of the name. McNab really took me under his wing, and gave me the benefit of his years of learning, particularly in the techniques of the law, which is sometimes forgotten.

Morris: That was not stressed in your courses in law school?

Harris: No. Sometimes the techniques couldn't be printed too largely. [laughter]

Morris: Would you care to cite an example?

Harris: No, I don't have any now. I've left my poor mind at rest.

Morris: All right. Well, if you come across any that you'd care to share--

Harris: McNab was a very interesting personality. I've written about him in the past; I hope to write about him in the future. He started his career in the Argonaut Hotel as a clerk. He studied behind the desk as a clerk in a hotel.

Morris: Read the law books?

Harris: Read the law books. That was his teacher.

Morris: Had he gone to St. Ignatius too?

Harris: No, I don't think he ever went to school other than probably grammar school and high school. Maybe grammar school. He was a genius in tactics, particularly. I remember one morning he came into my little office--and it was a little office--he said, "George, the biggest case we've ever had just broke. We're representing Charlie Chaplin." Charles Chaplin.

Morris: Had he gone seeking that case? How had Charlie Chaplin found him?

Harris: In that time, we were representing a great percentage of the film people. Los Angeles people would come up here for their--

Morris: I noticed a number of Los Angeles film cases, and I wondered how that came about. Why would the Los Angeles people come to San Francisco?

Harris: I don't know, excepting that some of the larger firms joined others in a fashion that would indicate that they were more impressed with some of the lawyers here, individually. There were some individual lawyers in San Francisco who met the highest of standards, particularly in trial work. It was that distinction that I think they sought and achieved. Not to single out any one or two, but just to take the class as such.

Morris: How long had Mr. McNab been practicing as an attorney by the time you became his clerk?

Harris: He was practicing going back--I'd say 1906--the earthquake and fire--some place a little bit before the earthquake and fire.

Morris: Before then?

Harris: Yes.

Morris: So he was a leading figure when you became his clerk.

Harris: That's right.

Morris: What did you do for Mr. McNab while you were a law student?

Harris: Oh, investigate law, write memoranda, conduct examination of pleadings, approve pleadings, collate the evidence, take depositions. That's about it. Interview clients that were of lesser proportions than the boss wanted to take time with. Generally help. And as you helped, of course, your importance became more acute and sensitive; your capacity became more pronounced. Ordinary acceleration of a person's career.

Harris: In my opinion, I suppose I'm being a little bit doctrinaire about it, but I think law training in an office of one year or maybe two years is of inestimable help and benefit. Even longer, if possible. They have worked out a formula that's helpful, wherein the student goes right to the office everyday rather than to some library, and rubs elbows with practicing lawyers. That's on a working basis now; I think it will be accelerated in usefulness.

Morris: As a regular part of the law school program.

Harris: Yes, as a regular part of the program, because it's a hard world for a youngster getting out, competing or attempting to compete with the type of lawyer we have today--beautifully trained men. The lawyer today in my opinion is better trained than any in the past. The demands on the young lawyer are so great, I think he should be given an opportunity--and he is now--to work his way through about two years and receive the credits for that.

Morris: It sounds as if you found your work in Mr. McNab's office helpful, then, when you were in classes.

Harris: Oh, it really helped a lot. I was doing major work.

Morris: And did that mean that you got better grades in law school than some of your classmates?

Harris: I don't know. I never checked it out, but I assumed that I was.

Morris: Did many of the people in law school at that time do as you did and work as clerks?

Harris: There were quite a few. Quite a few.

Morris: Have many of those men who were in law school with you stayed active in the legal profession in the Bay Area?

Harris: I think so.

Morris: Was Pat Brown at law school when you were?

Harris: Pat and I had not crossed roads. I knew him individually when he first followed a career as a politician. I was out in the Richmond area in San Francisco. He built very strong fences. Pat Brown is a very intense politician and a very good one. Very, very excellent man. I needn't point out his record, but it's a good one.

Morris: So you didn't know him even though he was growing up--

Harris: No, I didn't know him too well until he came down to the Hall of Justice--he'd just taken over the district attorney's position [1944]. He came down to interview me with respect to his duties, obligations, and what I thought of the office, and what I thought would help the office of district attorney.

Morris: This is while you were still in private practice?

Harris: No, this is while I'm on the bench.

Morris: Municipal court.

Harris: In municipal court. I grew to like Pat: I liked his forthrightness.

Morris: That's a very good strategy for getting started in a new job, to go around and talk to the--

Harris: That's right. Later on I sponsored him for membership in the Bohemian Club. He's since been made a member.

Morris: How about the bar exam? When you finished law school, was passing the bar exam a major--?

Harris: It will always be a major achievement and a major problem. Whether it's the right way to pass judgment on a youngster, well-trained disciplined men, is quite another problem. It's been scrutinized, of course, by certain groups as unfair. But I think by and large it's pretty well achieving fair results.

Morris: For you yourself, was it a major encounter, or did you feel pretty confident when you took the bar exam?

Harris: I don't know. I know that in my early tenure as a young lawyer, Stanford was having problems with the bar examination. I was asked to go in and look into the matters. I came out with a pronouncement or judgment that I thought it was a fair examination. I think it was a private finding.

Morris: They asked you to come and take a look at it?

Harris: It wasn't a formalized thing. I thought it was fair. Then they have an oral examination which was a dreadful experience.

Morris: What happens in that?

Harris: Well, that's a kind of--my first experience with an oral examination was I appeared in an office downtown, and the lawyer was sitting behind the desk asking questions that you might ask, but I think without the courtesy that you extend.

Morris: Thank you.

Harris: He had some tough questions. I thought I'd blown the examination, but I managed to survive. The oral examination, you see, is a difficult one, even if you're well-prepared.

Morris: This is one student and one attorney?

Harris: No, then they had one attorney and several students. Then they broke it down to one student. It was a fair examination, but tough. I think they still have it--the examination.

Morris: This is to get an idea of how you might function then in presenting a case before a judge?

Harris: Some people freeze in an examination like that--absolutely freeze and are little help to themselves. Some of our finest lawyers have not had the benefit of a loquacious or outgoing type of presentation.

Morris: Am I correct that moot court is a part of everybody's law school experience?

Harris: Yes.

Morris: Is that designed to give you some stand-up practice?

Harris: Yes. It helps. Would you like to take five minutes? [brief tape interruption]

##

Harris: The oral examination sometimes afforded an opportunity to the staff of the university to--I'd better not pursue this. I'd better not pursue this. It gets into a great deal of practice and so forth.

Morris: The oral exam is not part of the official state bar exam? Is that what you're saying?

Harris: I'm not familiar with the standards that the oral examination presently occupies. That's the reason I'm reluctant to discuss it. [tape interruption for coffee and pastry]

Morris: I was wondering, when you were in law school, what were the particular issues, what was going on in the community and the state, that law students were involved in. Did you have time for current events?

Harris: I couldn't without notes remember the issues that might have been involved. I think I'd be drawing too largely upon my memory. I don't think I have a valid answer to that.

Morris: How about things like the 1923 waterfront and general strike? That would have been probably early in your law school career. I was wondering if your grandfather was still in the teaming business at that point and if it affected his business?

Harris: No, I don't think I could answer that, whether it affected his business or not. I don't know when he terminated the business. I know he sold his interest when the pressures became too great, and he was not getting any younger.

Morris: Then I can't ask you if that increased union strength.

Harris: How it affected my grandfather, of course, is remote.

Morris: Okay.

Harris: I remember the maritime strike in Seattle very distinctly. I went up there, and I had a government agent with me, and I had been studying on the Taft-Hartley measures very seriously. It was in my court that the Taft-Hartley was first invoked in a labor dispute.* That, of course, is a landmark decision.

Morris: Indeed. I need to read a little bit more about that, and then I'll send you my notes, and I'd like your comments on that.

Harris: All right. Send me the notes after a session any time.

Recollections of Gavin McNab and Nat Schmulowitz

Morris: Okay, let's go back to Mr. McNab. He sounds like a fascinating person. Could you describe him for me?

Harris: Yes. I have some photographs of him in my office. He was a large man, large proportions, and not too prepossessing in appearance and dress. He was cordial to a fault--a man of great cordiality and political attainment. Out of hand he practically ran the mayor's office, dictating policy from time to time. He was a man of intense power and held the power lightly.

Morris: Held the power lightly is a nice phrase.

---

*U.S. v. International Longshoremen's and Warehousemen's Union, 78 F. Supp. 710 (July 1948). The Taft-Hartley Act had been passed in July, 1947.

Harris: By that I mean he wasn't an oppressive boss type that you see in the literature of the courts. He was a benign--cut benign. He was a very lovely man with an intense charity, helped many people on their way, helped many a young lawyer, and was one of the real principal forces in the evolution of our legal process in the West, I think. Not that he was a great student, but he was a great humanitarian.

Morris: "Evolution of legal process?"

Harris: When he associated, he had a capacity for gauging the standards of a man by conversation; and he selected from time to time honor men from different universities to work with him. Not to the degree that we have the selection process now, but, for instance, his top trial lawyer, was Nat Schmulowitz [spells it]. He was a gifted lawyer and was really McNab's right hand man.

Morris: And where had he come from?

Harris: California. University of California.

Morris: Berkeley. Would he have just one of these young men at a time, or two or three?

Harris: Not many. Then Nat Schmulowitz asked him for my cooperation. The business got heavy, and I helped Nat in preparing for trial and actually tring some of the minor cases, until we were able to get other hlep in.

There was an elderly man by the name of Bronte Aikins--superb lawyer. [spells name] Bronte Aikins.

Morris: That's a very unusual name. He was the older member of the firm?

Harris: He was the older, yes.

Morris: Had he encouraged Mr. McNab when he was getting started in the law, Mr. Aikins?

Harris: I think so. It was the usual evolution of a law office. But the practice was a big one and a demanding one. McNab was a genius in extraordinary writs; the employment of an extraordinary writ received very fine attention in his hands. That's why I referred to him as a tactician.

Morris: Extraordinary writs?

Harris: There are four or five: petitions of prohibition and so forth. There are four or five extraordinary writs that receive special attention.

Harris: I worked late at night in the office, and very often McNab would come in after dinner and we'd take a walk. He told me about the early days in San Francisco politics, the part he took in it, what should be done to make it a successful city and so forth.

Morris: What were his particular ideas at that point?

Harris: I haven't any independent recollection of what he had to say in the circumstances. There's been too much water under the bridge. I couldn't possibly recall what he said at that time. I haven't any notes on it.

Morris: You said you had written an article about Mr. McNab. I haven't come across that yet.

Harris: I'm not too sure that you'll find anything. Maybe Mrs. Driscoll has it.

Morris: I came across a couple of speeches of Mr. McNab's, however.

Harris: Did you find two?

Morris: I did.

Harris: In his handwriting?

Morris: No, but they were printed.

Harris: I lost two beautiful writings he gave me in his hand--speeches, because we used to write his speeches. Very often he'd adapt, correct, revise, and otherwise alter the material that we produced. There were some challenging times, and we tried to meet them as best we could. I had copies of several speeches he made.

Morris: Yes. That's what I came across. There was one in 1921: he was speaking at a meeting to plan the Industrial Exposition in San Francisco. He was saying that San Francisco needs more human energy to spark industrial energy, and he was also concerned that there were so many professional politicians that the state might go broke.

Harris: That sounds something like he'd be writing. He was extremely articulate, particularly in forensic presentation. I would say that his arguments were very destructive of the opposition. He had a capacity for the epigram, and he was a very artful man in condensation of subject matter of a talk. However, he realized his proportions were limited in the courtroom, because of the fact that he just simply was not disciplined and trained as well as a man who had gone to the university for six years. I think he understood that, although his readings were enormous. He was an excellent reader and excellent student of the classics, and it was an education to be around him.

Morris: It sounds like it. Was the division of labor rather that he had the contacts and brought in the clients?

Harris: Early in his career, he took up the cudgel for the labor movement, which had just then become emergent. I think you'll find in the files a statement made by McNab. I've quoted it, and if you haven't found it thus far--Mrs. Driscoll and you--I know you will find it. It's quoted material from McNab, and it's quoted from an article that appeared in The Recorder that gave in a succinct form much of his philosophy about the then pending difficulties. It came out of the files of Mr. Culinen [spells name], who was one of McNab's leading lawyers.

Morris: Mr. Culinen worked with Mr. McNab?

Harris: No, he followed a career with McNab, with hearty approval.

Morris: When you say he was very much involved in the labor movement, this is in what way?

Harris: He was involved in every way that placed demand upon the structure of the movement. The critics received their sentiments in no uncertain terms from McNab. I hope you're able to find this quote, because I considered it one of the finest things written.

Morris: It sounds as if he was encouraging the people who worked in his office to take an interest in the civic and political life in San Francisco.

Harris: He had quite a burr that bespoke his British affiliations. His brother, John L. McNab, embraced the Republicans. And too had the accolade of approval of many of us San Franciscans.

Morris: So one brother was active in the Republican party and the other in the Democratic party.

Harris: That's right. It's kind of a handsome way to practice.

Morris: Yes. Yes. You can hypothesize that that made a bipartisan linkage possible? Did it work that way?

Harris: I don't know how it eventuated, but I think it couldn't hurt the cause to have that balance of power.

Morris: Well, I've heard the same thing said in later years about the brothers McCarthy [John and Robert]. One's a Democrat and one's a Republican in the legislature. Is this a picture of Mr. McNab?

Harris: That's a good steel engraving.

Nat Schmulowitz

Gavin McNab

Morris: Isn't that nice!

Harris: That's a nice picture of Schmulowitz.

Morris: And the younger one is Mr. Schmulowitz. [brief tape interruption] The portrait of Mr. McNab shows him with rather a strong jaw.

Harris: Yes. Very lantern-type jaw.

Morris: Right.

Harris: Yes. He was a very strong man. The day that he died, I had been out on trial of a case. I came in to the elevator, and they were wheeling him out in a gurney. He'd suffered a stroke at his desk. It was a great shock to me. I think he really had a deep interest in the members of his firm, because he took such an interest in me. Schmulowitz, of course, was top-flight--a mature lawyer. Graduated 1912 from University of California.

Morris: That was a famous class.

Harris: Yes. There have been some strong lawyers developed at California. At Stanford as well—we have two great universities.

Morris: And your own school has held its own, I think, with those. There were the four of you, then, in the firm, in the late twenties.

Harris: The late Jim Bagely, one of the great athletes developed in the West, was also a junior and in a measure befriended me in getting into the office.

Morris: Was he the friend that you worked with in the investment company that suggested--?

Harris: No, he had nothing to do with investments.

Morris: Just as a rough guess, about how many clients would the firm have been able to--?

Harris: I couldn't answer that. I have no basis of computation. They had a heavy practice, a heavy trial practice. The outstanding cases of the day seemed to find their way into the office, although it should be said that there were other firms equally as prosperous. It was a prosperous law practice.

Morris: Did that prosperity last through the thirties?

Harris: Oh, yes. Even after McNab died, it was carried on by Schmulowitz and to some extent, my association with Schmulowitz.

Morris: That's interesting. I've talked with other attorneys who were coming out of law school in the late twenties, who say that it was very slim pickings and very hard for a young attorney to make a living for himself.

Harris: Yes, that's right.

Morris: But that wasn't general. Some firms managed to--

Harris: Well, the standards of today are so far removed from the modest standards of yesteryear, you can't make comparisons.

Morris: We're also interested in the evolution of law firms, and--some law firms have become so large--

Harris: Of course, now they're so large they're almost impossible to work with. Pillsbury, Madison and Sutro has 125 lawyers. Not that it affects the practice--I think their standards are just as high--but it's a problem, I imagine. Do you get the specialized training? Do you get a lot of things? I think I'd be presumptuous to even [speculate].

Morris: I wasn't thinking of an evaluation; I was just kind of looking for a baseline for comparison as to what was a workable sized law firm in the twenties. But it would be four or five attorneys?

Harris: Yes. Shall we terminate now? I'm getting tired--

Morris: Thank you.

Harris: --and I have a funeral service to attend.

Continuing Interest in the Theater##

[Interview 3: May 16, 1980]

Harris: You might state for the record the nature of the proceeding now.

Morris: All right. We're here continuing our discussions of your career in San Francisco as an attorney, for the Northern District Court Oral History Project, and this is the third session we've had.

Harris: Very well. First, may I thank Mrs. Morris for her graciousness in handling of the matters thus far, as well as the proposed questions that she intends to pursue today and later, perhaps, in supplemental hearings. Mrs. Morris has made everything quite comfortable for me, and I am willing to answer any questions which she asks.

Morris: Thank you. We appreciate having such a not only knowledgeable, but cooperative and interested participant in our researches.

Harris: You can mark for identification a letter dated May 13, 1980, as the basis for several of the questions to which reference has been made.* Now you might pursue your orderly examination in such form and fashion as you desire.

Morris: Thank you. I'd like to start this morning by asking you about your continuing interest in the theater as a young attorney. I wondered, first, when you yourself started writing plays. In your papers, I find a copy of script entitled "Wing-Ding." It was dated 1939, and looks like it might have been for a Bohemian Club event.**

Harris: I should like to offer, subject to any observation on the part of Mrs. Morris, an article which appeared in one of the local journals entitled "The Judge Saves The Actor's Workshop." That article is addressed to the subject matter. It is an excellent one in terms of a delineation of the background material and is fairly accurate with respect to the subject matter. May I have the record identify this matter.

Morris: Thank you. The record identifies the article as published in the San Francisco Vigilante for Fall, 1960. [see next page] I wonder if we could go back a little bit before the Actors' Workshop. Could you tell me a little bit about joining the Family club, which I understand is also interested in theater work?

Harris: I participated in the Family--just the Family--

Morris: I understand. "Club" is not the right designation for it.

Harris: That's not the proper designation. "The Family" is the proper designation, not the Family Club. I did considerable work in the Family, preparing skits and the like, arranging musicals, and in large measure adding to the entertainment available at the Family.

Morris: Would that be while you were still working with Mr. McNab?

Harris: Mr. McNab was not identified with The Family, as far as I can recall.

Morris: Do you remember who did introduce you to The Family?

---

*The letter contained proposed questions for the interview.

**See supporting documents for this play script.

Judge George B. Harris

The Judge Saves the Actor's Workshop

From San Francisco Vigilante, Fall, 1960

The press release said: "Beginning in November, the Actor's Workshop will present the largest resident repertory season to be seen in San Francisco since the invention of the movies — and maybe ever . . . "

* * *

Then came these facts:

• The Workshop has hired ten professional actors, three of them already members of the company.

•Three local actors, hired with approval of the Ford Foundation, are Michael O'Sullivan, Tom Rosqui and Robert Symonds.

•All ten actors will be paid $200 a week on 47-week contracts, half of the money to come from a Ford Foundation grant, half from matching funds raised locally.

•The grant is $47,000 for the current season, with $52,000 offered for each of the following two seasons providing the Workshop presents theater for 52 weeks and the community raises a like amount of money.

•It makes possible a projected season of 12 plays to be presented in the Encore Theatre and the Marine's Memorial Auditorium.

•The first of the new productions will be "The Rocks Cried Out," a tragedy of the American South.

•Two other plays to be drawn from the following list, will be presented this year: "Twinkling of an Eye," by Hamilton Wright and Guy Andros; Eugene O'Neill's "A Touch of the Poet;" Ben Jonson's "The Alchemist;" Shakespear's "King Lear," and "Mark Harris' "Bang the Drum Slowly."

•The seven outside actors chosen are: James Gavin, Los Angeles; and from New York: Philip Bourneuf, Lawrence Hugo, William Major, Albert Poulson, Frances Reid and Hope Sansberry.

•The workshop managed to raise matching funds for the coming year only because a last $20,000 was guaranteed by four members of the board of directors: Edward D. Keil, Garret McEnerney II, Louis Lurie and Walter Johnson.

One statement could have been added to the press release: three days before the deadline, the drive had reached $27,000. The sour smell of failure was in the air.

Judge George B. Harris, Chairman of the Board, Actors Workshop, called Keil, Lurie, McEnerney II and Johnson.

He said to each of them: "Lend the Workshop $5000—as a guarantor. I will see that you get your money back!"

The answers were in the affirmative.

In a letter, the Ford Foundation, through W. McNeil Lowry, Director, lauded Judge Harris: "I want to congratulate you and Messrs. Lurie, Johnson, McEnerney and Keil and the other San Francisco leaders who have associated themselves with you on an historic accomplishment.

"Through my conversations with you, I appreciate the difficult task you addressed yourself to.

I am particularly grateful for the way you have assumed and carried out the undertakings into which you and I verbally entered last November in your chambers in San Francisco.

"I am confident, as I know you and your four associates are, that by April, 1961, your faith in the further response of citizens of San Francisco will have been justified.

"I think there is a story here that would be of interest to all public-spirited citizens committed to the arts, and I hope to be able to tell part of the San Francisco story to our Trustees when they next assemble."

Harris: Vincent Duffey [spells name], a professional actor. Vincent Duffey was a professional actor and writer and staged many of the shows at the Family. He advised me that the membership committee, the board of directors, had approved my general application for membership and that that would enjoy having me as a member. The process of my becoming a member of the Family was very simple and expedient one. They enjoyed my association, I'm sure, as well as I enjoyed theirs. This is a very unique organization, somewhat fashioned after the Bohemian Club, but in a more modest--they put in a little more--fashioned after the Bohemian Club. The Bohemian Club, of course, is known generally the world over as one of the outstanding organizations of its kind in the world. They have a production schedule that is comparable to any professional organization, and they maintain a very high standard of production both in the classics as well as in the comedy field.

Morris: Do I understand that you joined the Bohemian Club after you'd been involved with the Family?

Harris: Yes. That's surprising.

Morris: Yes. Who invited you to join the Bohemian Club?

Harris: A gentleman who's now deceased.

Morris: About how much time would you have spent on activities for the Bohemian Club?

Harris: Practically all of my spare time. I was engaged in production of minor skits as well as major production including a wide range of the classics. You can continue on if you wish.

Morris: Yes. Did you do acting in these plays?

Harris: Some of them. Most of my work was production.

Friendship with Rudolf Friml

Morris: Was it through the Bohemian Club that you made Rudolf Friml's acquaintance?

Harris: Yes.

Morris: In his listing in Who's Who--

Harris: That answer's a rather terse one. My early association with Rudolf Friml came about in a rather unique fashion. I was engaged in producing a series of shows, and I went to Vanessi's restaurant in San Francisco, for a brief respite after working. Joe Vanessi introduced me to Rudolf, who was having a dinner there. That started a very unique friendship that has existed up to the present time.

Morris: Can you describe Mr. Friml for me, what his qualities were that you enjoyed?

Harris: Rudolf was an extraordinary-appearing man. His demeanor and general attitude bespoke his early associations as a Czechoslovakian musician. He was forthright, a real artist to his fingertips, and a very generous with his music. I learned a great deal from Rudolf, as in general you would, because he was an outgoing person.

He was educated at the Prague University, receiving high degrees in music.

Morris: Would he give comments on your plays in progress and the skits that you were writing?

Harris: Yes. On many of them, he would.

Morris: Was he living in San Francisco at that point?

Harris: Yes. He lived at 500 48th Avenue. We were together one late afternoon when he selected the house. There was a rose arbor outside, and he said, "George, look; I'm going to buy that house because of my number, "Only A Rose."

He was spectacular in a typical European fashion and was a prolific writer, and one of the first in the field to use the electronic formula and mechanical devices. He reduced everything to tape, and now has, or had in his lifetime, a wealth of recordings from a wide range of ballet to comic opera. I'm not sure if Mrs. Friml has plans for the future, but I've learned that most of the material is available.

Morris: I gather from your extensive correspondence with him that he traveled a good deal.

Harris: He loved to travel. I think he had sort of a fix on travel, to the extent that he believed that once he finished traveling, his days were over, his productive days were over.

Morris: That's a curious idea.

Rehearsing for Bohemian Grove encampment, July 1972. The play was "Scattered Leaves," George Harris, Sire.

Photo by Stone and Steccati

With William Osteck, a former agent of Rudolf Friml's, at Friml's Los Angeles home, 1977.

Harris: Yes. He was essentially a prolific writer and had been considered until his recent death one of the great melodic writers of all time. [see illustration next page]

Morris: From your correspondence, it sounded like you handled a lot of personal business for him while he was on his travels.

Harris: Personal business?

Morris: There are references to looking after his house and then later on some references to arrangements for filming some of his work.*

Harris: I suppose it would reach that degree, although not in detail. The interest that I took in Friml was designed to produce and have the world know some of his outstanding records.

Morris: Let me ask it another way: it sounds as if you got musical and theater advice and encouragement from him, and if he needed some advice on legal matters, you provided that as a matter of friendship?

Harris: Well, legal matters would hardly fit the category. I may have arranged for a maid or something like that in his household as a matter of convenience, but I was not delegated to nor did I undertake to arrange his personal life. He had a secretary whose name was Kay Ling [spells name], who was most efficient. He trusted her implicitly. His trust for many people was very limited. Why I never knew, but in all of his friendships he was ultraconservative, ultraconservative. I think that Kay probably undertook to arrange most of the intentionally personal matters for him, and later married him in a rather picturesque ceremony in the Supreme Court building in San Francisco.

Morris: Really? Did you perform the ceremony?

Harris: No. He spoke of marrying Kay on many occasions. I explained to him generally what ASCAP meant. Of course, that was unnecessary, because he was one of the organizers of ASCAP, one of the initial members of the board. He was beloved in the ASCAP colony.

At all events, Kay and Rudolf decided to marry, and I arranged that Phil Gibson, chief justice of the supreme court, perform the ceremony.

Morris: That sounds like a pleasant change from judicial duties.

---

*Judge Harris's papers include extensive correspondence in the 1950s and '60s with Rudolf Friml and major motion picture studios discussing plans for a film on Friml's life and the suggestion that Judge Harris write the scenario.

Rudolf Friml

1879 · COMPOSER AND CONCERT PIANIST · 1972

Rudolf Friml, a free soul,
Is not encased in bronze or marble
Nor are his sensitive, fleeting hands
Forever stilled.

His soaring genius and inspiration
Will live on throughout the ages.

May a Choir of Angels
Comfort and surround him
As he, again, improvises
A new melody for The Divine Father
The master of all creativity.

While his venerable teacher Anton Dvorak
Looks proudly on – ever so proudly. *

~George B. Harris

Bob Hyde

* WORDS OF GEORGE HARRIS SPOKEN AT THE CHAPEL SERVICES FOR RUDOLF FRIML
NOVEMBER 16, 1972, FOREST LAWN MEMORIAL PARK, HOLLYWOOD

Harris: Apart from the vivid personalities involved, there were many facets of humor involved as, essentially, Rudolf was a humorist.

Recently, there has been a revival of some of the Friml material. All in all, the production was well done.

I've got a note right here--Vagabond King. There were two new numbers added, and additional dialogue to the original Vagabond King in a more current production. I think I'll get a cup of coffee. I'm a little cold. [coffee break]

Rudolf was an extraordinary person, vivid personality, typical showman, and generally a well-met individual. He had a violent temper, however, at times and was probably labeled as hard to get along with.

Rudolf and I developed a friendship that was essentially a very intimate one and could be well-characterized as a typical European family relationship.

Morris: You and your wife were closely involved in their daily and social activities too? It was a social and personal friendship, as well as your mutual interest in theater?

Harris: I suppose so.

Native Sons of the Golden West

Morris: Would you tell me a little bit about your involvement with the Native Sons of the Golden West?

Harris: That was purely an association with an organization which was the hallmark of typical California lodge activity.

Morris: The type of thing that would be helpful in making acquaintances and furthering business contacts?

Harris: Somewhat quasi-political and had nothing to do with the arts. [brief tape interruption for coffee]

It was impossible to embrace as fully as one should unless he joined the Native Sons of the Golden West.

Morris: It was important to political life?

Harris: Political life.

Morris: That's interesting. In what way?

Harris: Of course, there was a time when individuals who thought--well, I'd better be careful with this--

Morris: Was there a thought that the Native Sons made the decisions about who was to be a candidate?

Harris: There was a time when it was a must organization to join, both for the young politician as well as the older.

Morris: Was it connected with the Democratic party or the Republican party?

Harris: No.

Morris: At the time, was there a sense that people from out of California were coming to have too much influence in local affairs?

Harris: Yes, in a measure, I think it was a protective medium, rather than anything else. And I think at times, sometimes, that the Native Sons' loyalty to the state generally was a somewhat guiding light to a newcomer in politics.

Morris: Were they involved at all in election activities?

Harris: Oh, yes, very much so. Membership in the Native Sons was almost a must for young politician. Then their ideas met with disfavor--if that's recently or not I'm not sure.

Morris: I haven't heard of it as being a political force since the 1950s, but it's interesting that it had that role in earlier years. Do you recall whether they would endorse candidates and that kind of thing?

Harris: My activities have been very limited over a period of many years. I don't think I've attended a meeting in recent years.

Morris: How about the Society of California Pioneers? Did they play a similar role?

Harris: No, the Society of California Pioneers, of course, is a limited membership, to those who can trace their ancestor to California before 1848 with reasonable certainty. The Native Sons is an entirely different organization. The California Pioneers is intensely social, and membership carries with it a tradition.

Morris: Also with a factor of recognition?

Harris: Yes, recognition in the community.

Morris: How did you happen to join the Society?

Harris: That was largely due to I.M. Peckham, who was very active in the Society and was very encouraging of me in many ways. He indicated that becoming active in organizations like that was not a luxury for me to abjure. He, of course, was the uncle of our Judge Peckham. [tape ran out, reconstructed from notes]

Aileen Duffy Harris

Morris: Let's see. Would your wife have been active in these organizations with you?

Marris: Aileen always supported me in whatever I undertook. During the hard days of the Harry Bridges trial, she was in attendance in the courtroom every day. We would go out and have lunch together just the two of us, and it was a welcome surcease from the rigors of the trial.

As well as managing all the details of the home, she always knew all the families of the neighborhood and was my mentor in many ways.

Morris: Do you mean you would discuss your cases with her?

Harris: Not that so much, but rather that she was an able critic in her own right, both in the arts and current political affairs.

##

Harris: She had executive talents that were never really fully understood, even by the most intimate observers.

Morris: Could you give me an example of that?

Harris: Yes. She had an uncanny gift for political life. I always thought that she would pursue a career in political life. She was a very quiet person in her own environment, and abhorred the blatant attitudes that we sometimes find in public affairs. I think I would revise that. Can you go back over it again?

Morris: Yes. You said that you thought she had an uncanny gift for political life.

Harris: In resolving political issues.

Morris: In other words, if there were two people who disagreed on a political issue, she could help them find a way to proceed.

Harris: I often thought that she'd be an outstanding figure on a national basis.

Morris: Did you and she ever talk about whether or not she might become more active or even run for office herself?

Harris: She was a quiet person; I think she'd be unhappy in public office. We discussed my entry into public office quite often. I think that Aileen fundamentally got her enjoyment in that area by a quiet approach on her part, a non-interference approach; that would be one word. She had perfect respect for what I was doing and I, in turn, perfect respect for what she was doing. We never had any outstanding conflicts in that regard. I think that gives a fair picture of her.

Morris: The record shows that you were married in July of 1930.

Harris: July 22, 1930.

Morris: July 22nd. Not many men remember their wedding anniversary that specifically. How long had you had an understanding that you would marry each other?

Harris: Understanding of what kind?

Morris: That you'd marry each other. You said you'd known her.

Harris: I think it was always understood that someday we would marry. I don't know--it was unexpressed.

Morris: Did you wait for her to finish school, or that sort of thing?

Harris: She was attending--I think she was attending the Academy on Broadway, at least Gale was, if not Aileen.

Morris: Was it considered a suitable thing by Mr. McNab and the other attorneys for a young man, as you were then, to be married. Was that considered an asset in your own career?

Harris: I don't think it was ever discussed, expressly or impliedly. I think those were matters that were held sacred by McNab and his associates. What a man did in marriage and non-marriage was his own business.

Morris: What kinds of things was Aileen active in, in addition to being interested in your own political and legal work?

Harris: Art and decoration, I think, primarily.

IV OFFICE PRACTICE: POLITICAL INTERESTS

Representing Hollywood Stars; A Celebrated Estate Contest

Morris: Now I thought we might talk a little bit about your recollections of some of the cases you worked on with Mr. McNab, Mr. Taafe, and Mr. Schmulowitz. The earliest one that I found noted of some general interest was the Chaplin divorce case in 1927.

Harris: Yes. Since receiving your proposed inquiries, I tried to check my memory, and I find that it would be aided and embellished by the fact that Mrs. Driscoll has catalogued practically all of the major cases in which I participated.* That would necessarily have to comprise my recollection. I recall outstanding cases like the Chaplin case. I was quite young then, and I remember it was a proceeding that McNab rejoiced in, because of the characters involved. McNab in this sense was quite a showman, apart from being a great lawyer and tactician.

Morris: What kind of a role did you play in the Chaplin case?

Harris: Oh, a minor role. My recollection is I worked with Schmulowitz on the briefs in the Chaplin matter, and the briefs had to do with the jurisdiction of the trial court under a petition for writ of prohibition, a highly technical field of the law. We were upheld by the trial judge, that the court, as I recall, was without jurisdiction.

Morris: The court in Los Angeles was without jurisdiction?

Harris: Yes.

Morris: That enabled the case to be moved to northern California?

Harris: No, I think that issue was clarified later on, but it was a very involved, technical matter, and well handled by Los Angeles lawyers as well as the lawyers in the north.

---

*Loose-leaf binder summarizing the judge's decisions. In supporting documents.

Morris: There were several cases that had to do with Los Angeles film people. I was curious as to how it was that San Francisco attorneys were doing that much business in Los Angeles cases.

Harris: I think that's due to the fact that McNab had established himself as a very outstanding lawyer. We had, by reason of circumstance, I suppose, advanced into a very secure field in the representation of some distinguished artists. The results obtained by our office were quite outstanding.

Morris: So that then led to more cases?

Harris: Yes.

Morris: I guess one that was actually tried up here was the Fatty Arbuckle case.

Harris: Yes. That was defended by McNab and Schmulowitz.

Morris: Was that an unusual trial for its time?

Harris: Yes, quite unusual. I doubt very much if he would be prosecuted under current standards. It took three trials to acquit him.

Morris: Loyd Wright--?

Harris: Wright handled the Los Angeles end of the case--Loyd Wright.

Morris: Is he the Loyd Wright who later was quite active in Republican party affairs?

Harris: Yes.

Morris: Did you stay in touch with somebody like that over the years?

Harris: No. I think our association on the Chaplin case with Wright was one of the few cases we had with his office.

Morris: On these early cases, would you have been in court as a junior assistant to Mr. McNab and Mr. Schmulowitz?

Harris: Oh, yes. I wrote many briefs for them.

Morris: How did Mr. Schmulowitz differ from Mr. McNab in his manner of presenting a case in court?

Harris: Schmulowitz was essentially a technician; McNab was a tactician. Between the two of them they presented a very formidable unit of operation. Theirs was an intense relationship of strength. Tell me when you're getting tired.

Morris: I think maybe we could finish up in a few minutes. If you've got the interest, I thought we might get to the Flood will case today.*

Harris: All right. The Flood case is probably unique in the history of California. Constance May Gavin, kind of a storybook character, was one of the principals who claimed relationship to Jim Flood. Jim Flood was the social leader and denied parenthood. There were various attorneys acting in the matter: John Taafe [spells it] represented the petitioners.

Morris: This would be the Flood family?

Harris: Constance May Gavin.

Morris: Mr. Taafe represented Miss Gavin.

Harris: Mr. Taafe and Eugene Aureguy [spells name]. After a very heavy schedule, the trial court denied the plaintiffs' position, and, in the vernacular, threw it out of court.

Morris: I understand there was some issue with Judge Deasy, the judge who heard the case.

Harris: Judge Deasy judged me guilty of contempt for my failure to obey an order he had made. Judge Deasy insisted upon an order that I must be seated in my examination of George Ford, the celebrated attorney. I was cross-examining Ford after about ten days of testimony, and he insisted that I sit down. I told him I was not obliged to sit down. He judged me guilty of contempt. I was held in custody for a short time. That order was reversed at a later stage.

The Flood litigation became history as a result of settlement of all the claims. Constance May Gavin received her just awards. I suppose the case will be debated so long as they have law schools and courthouses, because it was vivid in its approach to the dramatic. And on a civil basis, it was just as difficult a case as you can find because of the local prejudices that developed.

Morris: Was there any thought ever of asking to move the case to a different jurisdiction, since the Flood family was so well-known?

Harris: That was denied. There were many jurisdictional aspects. It was a bitterly-contested case.

Morris: There were some references that Judge Deasy was thought to be, by some people, very much on the side of the Floods.

---

*Estate of Flood, 217 Cal. 763 (1933)

Harris: Judge Deasy was characterized at one time in that way, but the trial attorney, whose name escapes me for a moment, was more maligned in that direction.

Morris: Do you recall your own feeling in that matter, as to whether or not the judges were dealing reasonably with the issues that were being presented?

Harris: I think for the historical record, the printed word on the page should suffice.

Morris: I'm interested that the contempt matter related to whether or not you would stand up in examining a witness. Isn't it usual for the attorneys to be on their feet?

Harris: I insisted that Constance May Gavin's attorneys should be permitted to stand upright in their examination, rather than be seated. I was upheld by two appeals.

Morris: Was that not an unusual behavior?

Harris: I don't think so. There were important questions involved.

Morris: In the contempt citation, or in the whole case?

Harris: Well, there were so many issues in the whole case, it would be difficult in as brief a discussion as we're having to outline them fully and fairly; but there was always a feeling between the counsel and the litigants that bias and prejudice at some stage or another had crept in.

Morris: Did you appeal your contempt citation while the Flood trial was going on?

Harris: Yes. John Taafe sued out of a writ of habeas corpus and proceeded to finalize it by bringing it before the district court of appeal. He got an early decision from the district court of appeal. That was on the state side.

Morris: From the state court of appeal.

Harris: That's right. I think now we'd better take a short rest. [brief tape interruption]

Office Management

Morris: Tell me about working with Nat Schmulowitz. I understand he had a fine collection of books of humor.

Harris: [He was known] all over the world, in fact, for his library on wit and humor. He had collected ever since I'd known him. He gave all of the material, intact, emanating, as I said, from all over the world--he gave it to the City and County of San Francisco.

Marris: That's marvelous.

Harris: That endowment gave them, the city says at least, a library that's without peer in the world.

Morris: I'm told that he himself never told a joke. Is that true?

Harris: He wasn't a jokemaster in any sense of the word. He had a delightful sense of humor, but on the quiet side. He was a very unique individual himself. I had a profound respect for the man as a lawyer and as a gentleman. I never heard him raise his voice. He had a direct presentation that was typically Schmulowitz, and a vocabulary that surpassed description.

Morris: And almost a classical way of expression. I came across some notes he made for a speech when you were appointed to the bench that was remarkably elaborate.

Harris: He had a classical style. I'd know--immediately, as soon as I touched a brief, that it was Schmulowitz's brief. It was the hallmark of his career. He treated me quite generously as a younger man; I was quite a lot younger; so did McNab. McNab cared very little for the niceties of expression, but he managed always to get his point over by some anecdote or some forceful expletive.

Morris: Strong language upon occasion?

Harris: Yes.

Morris: I see. That's an interesting contrast. How had the two of them gotten together as law partners?

Harris: He never had a partner.

Morris: Taafe and Schmulowitz were not partners with McNab?

Harris: No.

Morris: They were just associates in the same office?

Harris: Yes, they were not partners. I don't think McNab, with his type of thinking, would ever stand for a partnership in terms of division of responsibilities as well as division of monies.

Mrs. Dunn, Lucy Dunn, took care of the finances. She was quite an eccentric little woman, and I always found it difficult to get along with her.

Morris: She was trained as an attorney herself?

Harris: Single. She was in love with McNab; never married.

Morris: But McNab was married?

Harris: Yes.

Morris: And Lucy Dunn was trained as an attorney?

Harris: No, she was just the bookkeeper.

Morris: It sounds like he was the kind of colorful person that it would be easy for a woman in that position to become fond of.

Harris: Oh, yes. She was a nice woman.

Morris: Did she keep the books for everybody?

Harris: No, just McNab. Schmulowitz kept his own books; I kept my books such as they were.

Morris: How about John Taafe?

Harris: John Taafe was separated from us altogether. John Taafe was conceded to be one of the greatest criminal lawyers in the West. You'd fall in love with him; he's a very fine man, very able, intense worker.

Morris: Were you in his office, or did you just do work for him?

Harris: No, I was in his office. I left McNab's office because John Taafe and I had been growing closer together, and I was trying more cases for John than I think he ever anticipated. He would very often try the criminal cases, and I would try the civil. But I had advantages that were not anything but miraculous from the standpoint of association with Mr. Taafe.

Morris: How so? You said "miraculous."

Harris: Strike the word "miraculous."

Morris: "Remarkable."

Harris: "Remarkable."

Morris: "Miraculous" has a special connotation.

Harris: Right. Might get even into the occult.

Morris: Did you feel that there was a special fortune guiding your experiences as a young attorney?

Harris: I always felt that Taafe and I got results that were somewhat startling at times, somewhat--not miraculous, certainly--

Morris: You thought sometimes you won a case that you didn't expect to.

Harris: Well--shall we stop here?

Antitrust and the District Court##

[Interview 4: May 23, 1980]

Morris: I found Judge Wyzanski's book, Whereas [Atlantic Little, Brown, 1965], in your library and I wondered if I might borrow it.

Harris: Certainly.

Morris: Have you found his ideas helpful?

Harris: He got a lot of attention on antitrust matters. You sent me notes for today about antitrust--American Can was the biggest civil case I ever tried.*

Charlie Wyzanski tried the Boston Shoe case which, in the east coast's viewpoint, is the largest antitrust case ever tried by a federal judge.** Boston Shoe case was the biggest and is a big area.

Morris: There were big errors?

---

*U.S. v. American Can Company [87 F Supp. 18, N.D. Calif. 1949]

**U.S. v. United Shoe Machinery Corp. [110 F Supp. 295, D. Mass. 1953]

Harris: Big errors, as well as physical propensity to big errors. Charlie became some kind of a high priest in the Boston litigation. When he approached his chambers, it was like the sanctum sanctorum. He grew very large over the Boston Shoe case, and his opinions became extraordinarily harsh.

Morris: Harsh?

Harris: Yes. I admire him as a lawyer, a brilliant fellow, and he's entitled to all the credit he earned in the Boston Shoe case. But the opinions became sort of ad nauseum for a while, and I think a lot of the glamour was erased from his attainments, because he is so able. Brilliant.

And I am fond of him. What I say is not a critical comment made just out of hand, it was made in processing my viewpoints.

Morris: Were there similar issues in the Boston Shoe case to the American Can case?

Harris: Yes. American Can was riddled with some good humor, too. The vice-president was really the focal point of all the operations. There was one operation that had to do with burning all the invoices in the basement of the American Can Company. Not only the invoices, but a number of other pertinent documents.

Morris: During the course of the trial?

Harris: During the course of the trial. The name of the man who was on the stand, and he was a perfect witness, very desirable type of witness: nothing ruffled him. He was a little bit taken aback when I asked him the simple question: "How do you explain the burning of the invoices and other collateral papers in the fireplace of the American Can?" It was not the fireplace, but the furnace room. He said, "That is what is called a commercial massage." He was taken aback. That was never lost in the litigation; that was a big thing for them to overcome. Their own vice-president--humorously, of course--but at the same time, grimly upsetting months of work on the part of the defense counsel.

American Can was represented by one of the most able civil defense lawyers in the United States: Whitney North Seymour. [spells name] He represents big interests, and he does a remarkable job. He represented American Can. I forget now for the moment what Washington firm represented [pauses to recall]--one from Washington. The representation was excellent. American Can was a tough case. I give you that as a supplement to our discussion.

Morris: Good. I'll put that on tape because I'd like to catch these little bits as they come up.

Harris: You can have it for what it's worth.

Morris: Great. How did they deal with the matter of the burned documents?

Harris: It was never adhered to and never mentioned formally. I think there were some informal representations. I think the gentleman who referred to the burning of the papers--my recollection is that he was vice-president, and he was so forthright and so unpretentious about the whole thing that it had the hallmark of rectitude and integrity. You know, it became something other than what it was.

Morris: It sounds like an example of the best defense is a good offense.

Harris: Yes, that's right. They made it humorous. Of course, to make a thing like that humorous--because there's a tragic example of corporate misconduct. There it was. I don't think they ever swept it out of the case. My decision's on record; I refer to it--the American Can decision. I have no feeling about it one way or the other.

Morris: In other words, it was not central to the--?

Harris: Yes, it was. It was a grim piece of evidence. There were other burnings in the defense of those [antitrust] cases. No, I withdraw that. That's not accurate.

Morris: I think there was a celebrated case sometime later, when, was it ITT was thought to have shredded a number of documents that might have been considered--?

Harris: Yes, that's right. That has a relevancy. That's correct. [brief tape interruption for coffee]

Harris: I remember Whitney Seymour well. He'd march into the courtroom with a retinue of brief carriers, all honor men at Harvard or Yale, most of them were honor men, terrific young lawyers, to really give you the support you need. He was very gracious, very graceful in his presentation. He was one of the finest trial lawyers I ever encountered. It doesn't seem to hurt him, no matter how irrevocable. He was a prototype of what the young lawyer today should study.

Morris: Did you find that an eastern lawyer had perhaps a different approach to handling a case?

Harris: I think eastern lawyers have a better opportunity. I think the eastern lawyers have a better opportunity than the western lawyers for the study of the larger case, the opportunity to visualize some of the intense litigation. Although we've had some on the West Coast, great proportions were the--[pause] What was the name of that antitrust case?

Harris: This case, and I can't remember the name for the moment, grew so large and disproportionate, that it came a non-judiciable piece of property. Larger than would permit the application of the ordinary process, and so large as to prevent the decision by--[pause]

Morris: Would this be the antitrust cases involving a number of electrical manufacturers that had to be tried in a number of different courts?*

Harris: That may be one of them. What I'm trying to say is that when all of the evidence is fed into the hopper for a judicial decision, it becomes very imperative, and to the casual onlooker [it appears that] it's a non-judiciable item to dispose of. Therefore, the lawyers did, I think, the proper thing. They made a heroic effort to decide to adjust the matter among themselves, and they came to a pretty good result. That seemed to supply the want, not apparent want, on the part of the judiciary, because I think the judiciary did everything possible to dispose of it in an orderly way. But the lawyers, in my opinion, did a very, very, very constructive job in getting the matters behind the courts, particularly as they were in such proportions as to become staggering.

Morris: Did part of some of those cases come before your court?

Harris: I have no independent recollection of it, but collateral matters, pretrial matters, many, many facets of the heavier litigation came. I can't recall specifically the cases at hand.

Morris: Perhaps this would be a place to ask you about the role of pretrial activities, particularly in a large antitrust case.

Harris: Pardon me for being--

Morris: Yes. Take a minute to think about my question.

Pretrial Proceedings

Harris: I think pretrial, well-conducted and well-ordered, is perhaps the most potent instrumentality that a court has today for working out the salvation of a difficult case. I think they're most useful instruments, if used properly and judiciously.

Morris: You say, "If used properly."

---

*See 195 F. Supp. 37 (1961) District Court E.D. Pennsylvania and subsequent cases of 1962.

Harris: And judiciously. I mean by that (amplified to some extent) it can be used as an instrumentality of force by a court, if the court is inclined to press into shape some of its own opinions, his or her own opinions.

Morris: In that kind of a situation, would it be a judge saying to the opposing counsel that "you will resolve this, and you should resolve it in this direction?"

Harris: I think the role of pretrial [pause] "When the hurly-burly's done, when the battle's lost and won," it seems to me that a greater number of the cases would be settled by the court participating in the pretrial to the fullest extent. I think the court should, in having to do with many cases, become not a protagonist, but more active in the process of settlement.

Morris: Would that be as a facilitator?

Harris: Yes, that's right.

Morris: In your experience, is it as many as a majority of cases that come before a district court that are resolved by pretrial negotiations facilitated by the judge?

Harris: I think the clerical staff in Washington would have the breakdown of the components that would go to make up settled cases.

Morris: What kind of cases might lend themselves most effectively to pretrial solution?

Harris: I think any litigated matter can be subject to pretrial.

Morris: Are there times when one attorney or another is not inclined towards settlement?

Harris: I think the run-of-the-mill attorneys lend themselves quite readily to the pretrial processes. I don't think there's any attempt to escape from the rigors of pretrial, and sometimes it's a rigorous proceeding, painstaking.

Morris: In what ways is it a rigorous proceeding?

Harris: Well, by entering into effective stipulations, it sometimes breaks up the buttress of litigious aspects of the case. A genuine and forthright appraisal of the rights of one's client—I think if a person is satisfied that the client has little or no defense and is merely coasting along on the goodwill of the court--that might be misunderstood, coasting along. I think if a genuine effort is made in an ordinary, run-of-the-mill case, it can be and should be used as an effective instrumentality.

Morris: In what kinds of cases is a pretrial settlement not likely to be possible?

Harris: Well, I think it'd be difficult for me to place a deposition in that area. I think that it'd have to be the subject matter of a forthright attitude on the part of both counsel, both plaintiff and defense counsel. I think if there is a fair and decent attitude of appraisal, of the evidential value and quantity thereof, that, with heroic efforts in many instances, some of the lengthier litigation could be settled.

Morris: In your view, is it the judge's role to point out the areas of possible settlement, and the relative value of the--?

Harris: I think the court can express the views in a case without showing any predestined decision.

Morris: So that in cases that are settled in pretrial proceedings, the judge then does not have to render a written opinion which then goes into the record?

Harris: Oh, I don't think that's true. I think any court worthy of the name is never reluctant to have its written or spoken word entered into the record; and if he has made a decision in his own part, and desires to present his decision to the counsel for whatever they may regard it, that decision should be presented in written form if the court desires, or orally, off the bench.

There's no easy avenue of approach to settlement in a case of major litigation, because bear in mind the lawyers worthy of the name have already processed the material evidence, they know what the evidentiary value of it may be and very often could effect a settlement efficacious to both parties.

Morris: Does "efficacious to both parties" mean that in many cases, neither side arrives at everything that they had wanted to achieve in the proceeding?

Harris: I think it would be reaching into the--I don't think I could answer it.

Morris: So often it appears in a case that both sides have--

Harris: --exhausted?

Morris: Well, have some fact and some standing to their position.

Harris: As the case progresses, inevitably the wrapping on the case begins to unravel.

Morris: That's a nice image.

Harris: It begins to unravel--I just put it that way because it occurred to me that that's a rather inviting way to put it.

Morris: The case doesn't stand up, in the vernacular.

Harris: That's right. A manufactured case, a case without integrity being scooted along by artful men, the fact that sometimes, notwithstanding the searching eye of pretrial negotiations and other cases, a case doesn't have the merit that was originally presupposed.

Morris: That sounds as if part of the judge's role is to evaluate the nature of the persons before, both the attorneys and--

Harris: I don't want to be accused of pressing trial viewpoints on already well-prepared lawyers. The lawyer of today is a pretty well-prepared individual. He has the working force to invite into the case; a large corporation is not interested altogether in conserving the energies of the defense counsel. All in singular, it occurred to me that from my viewpoint of the whole period of several years, I have a definite feeling that additional cases could be prepared on the pretrial agenda. It already exists. That might invite a statistical war, so just make it as a vagrant opinion on my part.

Morris: It's an interesting one--

Harris: When is there a cessation of the awesome power and responsibility of a federal trial judge? The power of a federal trial judge is beyond comprehension at times. Like all powerful forces, it should be tempered reasonably.

Morris: And invoked--

Harris: And invoked sparingly.

Morris: That sounds as if you see the judge's role as preventive in a sense.

Harris: That's right.

Morris: I think we may come back to this pretrial matter when we get to other cases.

Assisting Gavin McNab

Morris: If you don't mind, I'd like to go back a bit to where we were last week in our discussion.

Harris: Shall we take a five-minute recess?

Morris: All right.

Harris: Would you ask Mrs. Driscoll to come down? [brief interruption while Mrs. Driscoll returns]

Morris: We were talking about the number of cases that the judge was involved in while he was practicing with Mr. McNab and Mr. Schmulowitz that involved Hollywood, either studios or performers.

Harris: There was a Mr. Connick, an international figure in the theatrical world. I have no recollection of the case, but it may well be that it grew out of the welter of litigation that we had involving personalities in the motion picture world. Did you see anything on him?

Driscoll: The case does not readily come to mind. Did you have anything to do with the Chaplin case?

Harris: Chaplin, yes. Charles Chaplin we handled--

Driscoll: Charles Chaplin and Leta Gray.

Harris: Leta Gray Chaplin and Charlie Chaplin. We handled the settlement of the case; we handled quite a lot of the pretrial matters. Charlie Chaplin was just as picturesque in his portrayals as he was in the screen world. He was a very difficult client.

Morris: Demanding?

Harris: Mr. McNab handled most of the contacts with him. What was the name of the late comedian? Your papers have his name.

Morris: Would that be Fatty Arbuckle?

Harris: No. Fatty Arbuckle--it took three trials to acquit him.

Morris: The one I wanted to ask you about was Ben Blue and Arizona Comstock. You were quite a central person in that case, am I right?

Harris: I can't remember the details.

Morris: This was in 1935, and the case was Ben Blue v. The California Division of Corporations and the Commissioner of the Department of Investments. Ben Blue had bought shares in the Arizona Comstock Corporation, and then he later sold them while permission to market the shares was pending. The permission was later denied.

Harris: Was there anything about that case that--?

Morris: You appealed it to the state circuit court. I wondered how Mr. Blue had gotten involved in mining shares. That's a pretty specialized form of investment, isn't it?

Harris: Yes, but actors sometimes are very gullible about their investments.

Morris: Was this a questionable stock in some way?

Harris: I have no recollection. I remember Ben Blue as a personality.

Morris: And what was he like to deal with?

Harris: I have no recollection of dealing with him. He was a humorous, gay sort of a person.

Morris: There's another case that went on for some time that interested me, and that's the Hobart Estate case.

Harris: Hobart was a large and somewhat unwieldy case. Hobart interests were very large on the west coast, and the fight was over the estate. Our office handled most of the litigation on behalf of the defense.

Morris: Am I correct that at one point, Mr. McNab himself was a litigant on the case, as well as one of the attorneys?

Harris: I believe there was some question of a possible conflict of interest, but the matter was resolved satisfactorily.

Morris: I came across a curious reference to the Hobart case in reading newspaper accounts of the Bridges' trial.* Early in the proceedings, Vincent Hallinan charged you with being prejudiced against him ever since you had both worked on the Hobart case. What would that have been about?

Harris: I would have thought the Hobart case was before his time. He's an able lawyer. We grew up as friends and parted, as the record shows, when I sentenced him for contempt.

##

Harris: I said, he's a very able lawyer. His comments to the jury when we went to trial for contempt were very explicit and needed no explanation.

Morris: He had a separate trial on the contempt charge? Was that before you?

---

*S.F. Chronicle, November 18, 1949.

Harris: Yes.* It went to the circuit court for review--that was affirmed. What I have in mind is that Hallinan's comment to the jury saying that my participation [in the Bridges' case] is wrong. Let me state that I felt his comments were extremely unfair. I think this is on a tangent.

Morris: What I'm interested in is the number of you Irish attorneys who were getting established at the same time. A number of you seem to have been interested in political life, back in the thirties. I was wondering when you became active in the Democratic party?

Harris: I can't see that the Democratic party had anything to do with litigation that I participated in with Hallinan.

Democratic Candidate for Assembly, 1938

Morris: What I'd like to talk about a little is your work with Bill Malone and the Democratic party and then your interest in running for the state assembly in 1938.

Harris: All right.

Morris: New topic.

Harris: The evolution of my interest in politics was born by reason of my association with Mr. McNab. There were no importunities, nor were there any evidences of political suasion being presented either to me or to my colleagues.

Morris: Mr. McNab was known as a reform leader; I wondered what particularly he was interested in and what of those interest you shared?

Harris: That would take several volumes to carefully and knowingly present Mr. McNab's view on politics. He was a very ingenious lawyer, of great standing in the community. He was a figure of stature with respect to the Democratic party. He held together a loosely applied organization, but really not as potent as some people thought.

My activity, really, was limited in the main to the trial of cases and to the preparation of cases for trial. I don't believe that my attainments in political life are worthy of too much comment, because I'm not as versed in political life as I should be, I suppose.

---

*U.S. v. Hallinan [103 F Supp. 800, March 18, 1952].

Morris: I think you're being very modest.

Harris: No, I'm not essentially a politician as politicians are generally known. McNab used to give us a warning, and the warning generally read as follows: Take care of the trial of the cases; the political matters I will attend to. By which, as I later found out, he meant nothing more nor less than that he was fully able to take care of whatever political matters had a bearing on our employment.

If the inquiry is intended to portray McNab or anyone else imposing individual viewpoints wrongfully, I never saw illustrations or evidences of any such conduct. Nat Schmulowitz was a stickler for decorum and was, in my opinion, one of the really great trial lawyers in San Francisco. His conduct was punctilious, and he rarely spoke unless he was well prepared. Now do you think I could have about five minutes?

Morris: Certainly.

[break--rest]

Morris: In terms of an attorney's interest in the civic life of the community outside of his legal practice, I just wanted to ask you a brief bit about your campaign for the assembly, and if you worked on other political campaigns in the thirties before you became a judge. Bill Malone has told us a little bit about encouraging you to run for office.*

Harris: Bill Malone came out of the loins of the Mission District. He evidenced very early attainments in political life.

Morris: Had he in turn been encouraged to develop more interest in the Democratic party by Mr. McNab, by any chance?

Harris: I think the emergence of Bill Malone was an automatic one. His attainments from the standpoint of a skilled negotiator or a fair antagonist were amply supported by his general conduct in the community. He held the respect of the Republicans as well as the Democrats, and was altogether worthy of the responsibilities cast on him. Bill Malone could be earmarked a conservative Democrat, if there is such.

The reason that I was asked to step into the political arena was due to the fact that the 27th Assembly District was always held by a Republican leader. That is to say Al Wollenberg and others--Tinley--were generally the--

---

*See interview with Mr. Malone, in process in the Regional Oral History Office.

Morris: The 27th was a portion of Pacific Heights, am I right?

Harris: Yes. The most conservative district in the whole outfit. We called it The Hill.

Morris: And who was it that suggested that you should--?

Harris: They cast around for someone who probably would be worthy of the assignment, because they wanted to win it. I dedicated myself, fortunately or unfortunately, to a very difficult assignment. The 27th district was held by Republican leaders from the early times.* Some noted lawmakers came out of the loins of the district. I had a problem on the Democratic side and that is defeating my opponent on the Democratic side.

Morris: That was Marvin Lewis.

Harris: Marvin Lewis lost in the primary, and I had another vigorous opponent named Murphy--not the Edward Murphy with whom I later served on the court.

Morris: In 1938, you and Al Wollenberg were running in the general election. That was the year that Judge Wollenberg ran for the first time.

Harris: Wollenberg won the Republican nomination, and then I had received the Democratic nomination by wrestling the powers from a very presentable young man at the time.

There was nothing in my entry into the political life of the city that should cause any comments.

Morris: Well, it was interesting that you and Mr. Wollenberg apparently lived next door to each other at that point.

Harris: That's true. Every night I would go in and see Al Wollenberg and talk to him about how he was doing, and he'd talk to me about how I was doing.

Morris: That's marvelous.

Harris: A great friendship developed. It was a clean fight, and it was handled on a very high plane, because the people recognized that it was a district that had attained distinctions as one of the fine political areas in the West.

---

*From 1917 to 1943, when it became a San Mateo County district.

Morris: Would you recall what kinds of things you discussed during that campaign? Would you and Mr. Wollenberg have debated each other, or addressed the same groups on the same night?

Harris: Oh, yes, the same groups every night.

Morris: So that you got to hear each other's speeches.

Harris: The lonely life of an assemblyman is not altogether what it cracks up to be.

Morris: I would have liked to have heard your debates. What did you and Mr. Wollenberg—?

Harris: Wollenberg is no second rater. Wollenberg is a very, very astute lawyer and a very fine gentleman. He's a tough man to beat. Furthermore, you have the benign influence of his late and distinguished father.

Morris: Right. You both come from well-established San Francisco families.

Harris: That's right. We kept the level very high. There was no mud-slinging, there was no nothing. Excepting on the merits--he pointed out where he could ably represent the district. Of course, he was right in many particulars-- I did not have any experience in the legislature.

Morris: I think he probably had run before, but that was the year that he was first elected. It's interesting, because that's the year that Culbert Olson was elected governor, and he was the first Democratic governor in--

Harris: Culbert Olson was my friend. He was the most handsome governor in the United States.

Morris: His pictures are of a very distinguished man.

Harris: He was very distinguished. It's too bad that some of his legislation as proposed could not have been attained. I should like to have seen Culbert Olson in the Senate.

Morris: In Washington.

Harris: But my interest in political life was not as avid as one might expect, because I never received too much fulfillment, and perhaps I didn't live close enough to the picture. I could win or lose without too much anguish.

Morris: Did you campaign at all for Culbert Olson while you were campaigning for yourself?

Harris: No, I have no recollection of campaigning for Olson. I had trouble enough of my own. He was a pretty rough customer, Marvin Lewis. Marvin Lewis's mother taught him the art form of elocution. He was no mean speaker in his own right.

Morris: Was mother Lewis a political figure, a campaigner?

Harris: Yes. She was very interesting people. Lewis was a talented young fellow, he's done very well in the law.

Morris: You yourself were no slouch as a debater. You'd done a lot of debating in school yourself.

Harris: A lot of debating in school, yes.

Morris: That's different from actually getting up--?

Harris: Well, it's different than being in the legislature.

Morris: How had you and Culbert Olson gotten to be friends?

Harris: Olson?

Morris: Yes, Governor Olson.

Harris: I met his son first. After meeting his son, I talked to the senior Olson. He said, "We'd like you to run for office." He gave me all the reasons, many of them inviting, why I should run.

Morris: This is in the assembly race?

Harris: Yes. I saw in the offing nothing but expense, and it proved to be true.

Morris: Yes. It didn't pay very well in those days.

Harris: No, it doesn't pay to run for office. I lost to Wollenberg. Generally the loser is obliged to pick up his own chits.

Morris: Did you have a campaign manager and a committee?

Harris: Oh, sure, you always have some self-anointed campaign manager. [laughter] That's part of the operation--making big noises. Of course, it's not as simple as that.

You have to really love politics to enjoy this campaigning.

Morris: You say there's a lot of noise to it. It's often struck me that politics has a strong theatrical aspect to it.

Harris: Yes, I suppose so.

Morris: Who anointed themselves your campaign manager?

Harris: Enterprising people in the neighborhood; neighbor children. They're all well-designed people; but sometimes the uninvited are most difficult to deal with.

Morris: People you don't particularly know, or don't particularly welcome?

Harris: No, I have no likes or dislikes today; I love everybody.

Morris: Bill Malone's comment was that--

Harris: Outstanding. Malone is an outstanding man. He devoted his whole life to political enterprise.

Morris: Well, and I think would be a very knowledgeable source of information about who was up and coming in public life, not only in San Francisco, but statewide.

Harris: Oh, yes. It's generally recognized, or implied, that when you do run for office, and attain some distinctions, and withstand the rigors of running, that there should be some reasonable way of remembering that kind of conduct in terms of attainment of higher office and the like.

Morris: I gather that there were some disagreements between Mr. Malone and Governor Olson.

Harris: I wouldn't know.

Morris: You didn't get involved in those at all?

Harris: No.

Morris: I wondered if Mr. Malone talked to you at all about becoming a candidate for the county central committee?

Harris: No. Malone and I never discussed politics, except in an impassive way.

Morris: Did you have any contact with a man named Tom Finn, who I understand was an important person in Republican politics? Was he well known?

Harris: Tom Finn was a Republican leader of many attainments; and so far as I know, was a decent, honest, reliable labor leader.

Morris: It looked as if for a while there were Irish leaders both in the Republican and the Democratic party.

Harris: I don't think the characterization--Irish leaders?

Morris: I looked through some of the election records, to understand Mr. Malone's efforts to elect a Democrat in every assembly district, and what I found were Irish names as the candidates for both parties.

Harris: Wouldn't that be true if you took a cross-section of the United States, you'd probably find a proportionate share of Irish.

Morris: In the thirties?

Harris: Yes.

Morris: Yes. I think that's a useful comment, because the names do change, and reflect other ethnic origins. There have been several references in the press clippings on your career that you were a delegate to the Democratic National Convention one year, and I can't determine--some say 1940 and some say 1944.

Harris: In the forties. I was nominated, but I developed a very vicious flu and could not attend.

Morris: Was that a great loss in your life?

Harris: I don't think so. I never had that avid a notion about political life.

Morris: So you didn't really stay active, then, in election campaigns?

Harris: No, not in a formidable sense. I would take the citizen's viewpoint of what is good for the country and what is bad for the country, and make noises like everybody else. I still have only to say that I'd rather go down and see a good show. Not that I'm without respect for the labor leader, and I'm certainly respectful of the ordinary leaders of the destinies of the people. In these module districts like the 27th Assembly, generally you find some pretty able people, south of market people.

The Irish love politics, we say.

Morris: How about that other young Irish attorney, Pat Brown?

Harris: He's gone a long way. I saw him when he started in the Richmond district, with a handful of loyal little patriots.

Morris: Would this be the Sons of Cincinattus?

Harris: Yes, I remember that. Pat is one of the finest politicians ever developed in the West--politicians is all I'm talking about.

Morris: In terms of understanding and interest in the mechanics of elections and government.

Harris: Right. Pat Brown, as far as I know--his extreme honesty, his presentation and his contact.

Morris: He seems to have had a very strong interest in political organization and political life, from a very young man.

Harris: Yes, he's got a strong and devoted interest.

Morris: Did Pat recruit you to become a member of the Sons of Cincinnatus?

Harris: No. I can't remember any overtures that he ever made. He had a closely-knit little group. I did see him quite often, when he came to the Hall of Justice; as the new district attorney, he sought my advice on many matters of practice and procedure and so forth. I was then on the municipal bench.

Morris: Before Pat Brown was elected, there were some concerns about the office of the district attorney and its operation.

Harris: I know of no concerns that were put to my attention. No.

Morris: The contrast that is cited is that across the bay, there was that energetic district attorney in Alameda County named Earl Warren, who was making things new and different in county matters.

Harris: You mentioned Earl Warren, one of the great respected leaders of the West, and a man of dedicated honesty, and a man of extreme talent.

Morris: Was there any feeling in San Francisco that the district attorney's office should be brought up to date and modernized so that it would be like what Warren was doing across the bay?

Harris: I don't know that they helped it any, but I think everybody had a hope that the office would continue to be run on a high level.

Morris: Had Matt Brady been district attorney for a long time?

Harris: Matt Brady was an institution; he was not a public leader.

Morris: He was an institution. Because he'd been around so long?

Harris: Well, it's a way of saying that he was well-versed in the art of politics, which he was.

Morris: Okay. Bill Malone said that he felt that politics had lost a great practitioner when you decided not to pursue politics.

Harris: I don't know what the people may have lost, but I'm glad that I pursued the career that I did.

Morris: Did your wife take part in your campaign for the assembly?

Harris: Yes. Aileen was avidly interested in my career, and was a great adviser. I sought her advice on all matters that were germane to our family life; I sought her advice on practically all matters of my career.

Morris: Would she maybe have organized a women's committee too--?

Harris: I remember she was even dedicated to posting signs on posts.

Morris: Good for her!

Harris: That's how much she was interested.

Morris: That's a noble, unsung part of political campaigns. Would she have been in charge of the mechanics of the campaign, seeing to it that--?

Harris: Not necessarily.

Morris: It sounds as if she enjoyed the various civic aspects of life.

Harris: She had a very deep-rooted instinct about political life. Her intuition is better than some person's judgments.

Morris: In what ways?

Harris: Oh, that would occupy our attention for several weeks if we started in on that.

Morris: Okay, take a stab at it now, and then when you think of other things, when they're appropriate, we can include those in the record too.

Harris: Let's go back to that.

Morris: Yes. I do think that one's spouse is quite often very much a part of one's professional life.

Harris: There's no question about it. Generally wives are true helpmates in attaining success.

Morris: You have a very gallant view.

Harris: Not gallant at all, I have a practical viewpoint. My wife was an intellect, and I could see her in the role of executive in many branches of government. I can see her as a recipient of high office if she sought it. But she never sought it, and she more or less avoided it. If it involved any kind of a critical comment, she would not embarrass at all.

V SAN FRANCISCO MUNICIPAL COURT, 1941-1946

Appointment by Governor Olson; Chief Justice Gibson's Reforms

Morris: Let me ask you about your appointment to the municipal court. When did you begin to think that that might be a possibility in your life?

Harris: Well, I listened to some of the people who were espousing my cause ever since I started.

Morris: Who would those be?

Harris: Well, some of them are gone. The municipal court in the days that my conduct was reflected there was an institution. Developed there were some of the finest lawyers in the West.

Morris: Is the municipal court something that you seek appointment to?

Harris: Oh, sure, you run for office on the municipal court. That's the first rung. Thereafter, of course, it depends upon your ambition as to how much you want to attain. The municipal court is a difficult court, difficult in the kind of work that's engaged in, difficult in the type of assignments that are given. Altogether, it's a challenging court.

##

Morris: I understand that Phil Gibson is credited with considerable innovations in the state courts while he was chief justice.

Harris: He gave every aspect of the courts his most careful attention. He and his wife made it a practice to visit all the little towns of California to examine the courts and the politicians occupying the bench.

Morris: He went around and talked to municipal court judges in local--?

Harris: He did everything that a person should do to revise the thinking and revise the judicial attitude of the holders of the office. His practice and procedure was a benign one, to bring about a realization of the true value of maintaining the municipal bench in the highest order, particularly as it's reflected in the justice courts. The justice courts received their attention from Mr. Chief Justice Gibson.

Morris: Those by and large have gone out of existence, haven't they?

Harris: Justice courts largely went out of existence as a result of the activities of Phil Gibson.

Morris: Was there concern in the legal profession that the justice courts--?

Harris: None. It was a decadent situation.

Morris: They were not effective?

Harris: That's right.

Morris: Because of--let's see; let me put that question the other way. I understand that the judges on the justice courts did not necessarily have to have legal training. Was that one of the concerns?

Harris: That was one of the big concerns.

Morris: What did you and Phil Gobson talk about when he talked to you about the possibility--?

Harris: Oh, the million things that lawyers talk about, judges talk about. I couldn't make any recollection of the subject matters.

Morris: And then what happened after Mr. Gibson talked to you?

Harris: What do you mean?

Morris: Well, the municipal court at that point was an appointment by the governor. Did Culbert Olson talk to you at all about the possibility of an appointment?

Harris: No. Culbert Olson called me on the telephone from Sacramento on the day that I was advised of my appointment to the bench. He was very gracious--he was inclined to be gracious about all matters. He said the court was a challenging court, and I would grace it with favor and he was perfectly happy in making the appointment. That's in substance what he said.

Morris: Were there other likely candidates for that appointment?

Harris: Oh, yes. Quite a few. It was and is a highly-sought office. It has so many springboards.

Morris: You were quite young to go on the bench at that point, weren't you?

Harris: No, not necessarily. I was younger.

Morris: Younger than the other candidates?

Harris: No, I was younger than I am now.

Morris: Yes, I was too. [laughs] That's a very judicious response. So that, presumably, there were people who were talking to the governor about each of the potential candidates?

Harris: I don't know, really. I know that you had to talk about yourself before you get an appointment; it's the very nature of things. Very often campaigns are weighted by your friends.

Morris: That sounds like a kind of delicate, indirect activity, to develop the idea of one particular person as a candidate.

Harris: It wasn't as delicate as you might imagine.

Morris: In the federal level, I understand that judicial appointment requires the support of the Senator from the state. In a local court, does that require the--?

Harris: The waging of wars over appointments is not uncommon. Judicial appointments are difficult to attain. A man's career is studied from the time he enters political life until he's retired. One has to fully expect the most searching exqmination made of a man's record before launching on an appointment. I think the appointing powers in California have very largely lived up to the expectations of the people in the type of men that they get on the bench today.

Morris: Is the searching examination something that involves the candidate directly?

Harris: Oh, I suppose so. Directly and indirectly.

Morris: Does a representative of the governor's office come and talk to you about the possibility of an appointment?

Harris: I have no recollection. I'm sure that they did.

Morris: Would Olson's son have been carrying on that function?

Harris: Olson's son? Olson's son was a headache to his father.

Morris: Really?

Harris: Now, that's withdrawn. I think Olson's son is dead.

Morris: I believe he is, and I have--

Harris: Olson's son is not relevant to my conversation, because he is dead, and I think it would be an unfair inclusion to include him.

Morris: Do you recall who your rivals were for that appointment?

Harris: Edward Preston Murphy.

Morris: This is for the municipal court.

Harris: Every lawyer is a potential candidate.

Morris: It sounds as if you had some good friends arguing in your behalf.

Harris: Hopefully I did, yes. I hate to think that I received political appointment because I was unfriendly.

Morris: Would Mr. Malone have taken an interest in your appointment?

Harris: I think Malone took a general interest in my appointment. To speak in the vernacular, he's always been in my corner. He's a very worthy scholar of the American scene.

Morris: How long, roughly, would it be from the time that you first expressed the interest in appointment till--

Harris: I have no means of remembering that.

Morris: I understand that Justice Gibson did the actual swearing in, when you took your seat.

Harris: Phil Gibson swore me into office.

Morris: That's kind of unusual, for a chief justice of the supreme court to swear in a municipal court judge, am I right?

Harris: Gibson had a long record of successful trial work, a long record of political life in Los Angeles. He was a successful lawyer, a successful businessman, practical.

Morris: From your own trial experience, did you share his interest in improved court procedures?

Harris: Yes. We've covered a lot of ground.

Morris: Yes, we have.

Harris: Why don't we take a recess until the next calling of the calendar?

Morris: Thank you for giving me so much time this morning.

World War II and Port Security##

[Interview 5: May 30, 1980]

Morris: We had just started to talk about municipal court last week, and I wanted to ask you about a reference to your patrolling for the Coast Guard in the early days of World War II.

Harris: I felt--and many of the judges felt the same as I did--that, in so far as we were able, consistent with our judicial duties, that we should participate in a more active degree in and with the armed forces. A body of volunteers had grown up, composed of some of our leaders in civic and public life, to take over and command the port security. The forces at the port security were unusually capable individuals, who occupied very responsible positions in civic life, and in public life.

The duties of the port security officers, as well as the enlisted men, were quite demanding, particularly in the official role. They performed the functions that ordinarily would have to be performed by Coast Guard.

Morris: Was this actually being on the patrol boats?

Harris: Yes. They were armed with side arms and other accoutrements. They were catered to by caterers for their meals. Out of it grew a very responsible group of men, whose duties were not curtailed or modified by petty differences or material matters that were not significant.

Morris: Do I understand that Jack Shelley was--?

Harris: Jack Shelley was one of the officers. He had done considerable work with Coast Guard, before the events of the war, in a volunteer fashion. I think he reached the rank of captain. Shelley was a very unusual man. We grew up together and in political life. He came out of the ranks of bakery wagon drivers and occupied a very coveted role in our political system.

Morris: Was this when he was serving the state legislature that he was doing this?

Harris: I think so.* I think his attention was directed more vigorously in that direction. He was quite fired by the fact that we were very vulnerable in the port, and we didn't have the manpower to really combat the influences.

You may recall--or it may be too distant to recall--that submarines were seen in the Bay. The citizens became very alarmed. It was said in the press that the Japanese had sent a command of submarines to take over San Francisco. The press had quite vivid stories on the subject.

Morris: Would you have had any contact with Earl Warren, who was then attorney general and quite concerned about the whole matter of civil defense?

Harris: I couldn't say; but I'm quite sure that, knowing Earl as I do, he would address himself to their problems. He was very active in any cause that meant public safety and alerted himself immediately in a fashion that was commendable.

Morris: I have a vision of you and Jack Shelley at the bridge of a Coast Guard cutter in the dark of night. Is that the sort of thing that happened?

Harris: The yachtsmen became very active.

Morris: Was this the beginning of your interest in yachting?

Harris: In yachting? No. I'm not a yachtsman; I'm sort of a self-anointed one.** There are some very funny stories that grew out of the whole thing.

Morris: I wouldn't mind hearing a funny story.

Harris: We'll probably catch it as we go along.

Morris: Did this grow into the Coast Guard auxiliary that still exists and is active in San Francisco Bay boating?

Harris: I remember that the gentleman who took over the problems and responsibilities of the cooking and serving the midnight meal to the volunteers was the owner of a restaurant on Polk Street, one of the last French restaurants in San Francisco. They served excellent meals, of course.

---

*Shelley was a state senator from 1931-1945.

**See Appendix for Judge Harris's poem "Harbor Lights."

Harris: We were trained in the use of firearms and, all in all, it was a group that was not only responsive to responsibilities, but enjoyed the comradeship--a little group grew up within a group. They looked upon what they were doing with some degree of satisfaction. Not the fulfillment of their dreams about being in the Coast Guard, but some degree of fulfillment.

Morris: It sounds as if you did have an urge to be in active military service.

Harris: Yes, that's true. I tried to get into the Marine Corps. Before that, I tried naval intelligence. I'd done some work with naval intelligence before the war. That reached a point where I was quite active, and I was quite happy over there. Then the security forces demanded more personnel and, what with one thing and another, I lost out on it. I tried to get into the Marine Corps, and I met with very little success due to the age bracket.

Morris: By then you were also a sitting judge.

Harris: Yes.

Morris: That would have possibly posed some problems.

Harris: You're right; there was a conflict, and it worked to my disadvantage. I had so many friends that left me and were either overseas or someplace. I felt a degree of lonesomeness, I guess.

Morris: I have heard that from other people who had similar responsibilities that they weren't able to leave.

Harris: I had quite a few friends in it. The urge to help became very vivid and very potent. We were all in pretty good shape, former athletes or something, and it was some degree of mild satisfaction, of service to the government.

Morris: To be able to find a useful chore.

Harris: It afforded an opportunity. The night shift was a very difficult one, because you're on duty all night long. That meant going up and down the hulls and going down into the hold of the vessel, checking every known movable part and checking out possession of firearms, bombs, explosives. Fortunately, there were no serious injuries, although there were some bad falls and things of that kind.

Morris: Did you patrol naval vessels, or just the regular merchant shipping?

Harris: We patrolled every conceivable type of vessel that the Coast Guard would be obliged to process. We supplemented their efforts, under their command.

Morris: Were there any instances when judges did go into active service?

Harris: Yes, but the activity was a limited one.

Morris: In many kinds of work, the jobs were held for people who went on active duty. Would the judge have gotten his job back, as it were, on the bench?

Harris: Yes, that's right, the jobs were returned. There were several decisions in the appellate courts on that, where the reference was made to the fact that it was a voluntary and meaningful separation of the military from the judicial. However, I think the appellate courts upheld the theory of the trial judge that there was no conflict that would work to the disadvantage of anyone and dismissed the suits.

Morris: But there were cases where people who were appointed temporarily during wartime attempted to retain those positions?

Harris: Yes. There were two cases--two or three. I think one case was John J. McMahon [spells name] versus somebody or other. I think he prevailed. He was an assistant United States attorney; then he became a municipal judge, served quite capably, was a good trial lawyer.

Women Attorneys

Morris: We talked a little bit about your appointment to the municipal court, which was July, 1941. In the book of congratulations and ceremonies about your installation as municipal court judge, there were two women who were among the honored guests. I wondered if you remembered Naomi Hammond and Mathilde Lacau?

Harris: Both of them I remember. Naomi Hammond was a very active, very able young woman.

Morris: Was she an attorney?

Harris: She occupied public office--I think U.S. Attorney's office, or city attorney. A very capable girl.

The other lady I can remember not as vividly as I do the Hammond lady.

Morris: Mathilde Lacau was president at the time of the Queen's Bench.

Harris: Oh, that's right. Now I know. Those were the days when there were little groups that grew up--not uncommon now, but more actively then--grew up in semi-political life. They were seeking office in one form or another, and they used the instrumentalities available: joining clubs, fraternities, to bring themselves to the attention of the appointing powers.

Morris: Queen's Bench--is that similar to the Bar Association? An organization of women attorneys?

Harris: No, it's an integrated part of the bar.

Morris: Were there many women practicing law or in the legal profession?

Harris: Oh, yes, quite a few. The records of the State Bar would reflect that answer.

##

Harris: There were a number of good women jurists.

Morris: Would the women attorneys tend to be assistants to a man on a case?

Harris: Not necessarily. They held their own offices, sometimes as law clerks, sometimes trial attorney. As I say, I think the women in San Francisco and California have been outstanding in their fulfillment of all the obligations cast on them. Some of them are more than outstanding. You couldn't single them out. I think the demands are beginning to be felt for their survival. Not in any dramatic sense; but the compelling reasons were, of course, competition between the women, competition with outside forces, competition to take their jobs that they earned probably during the war years.

Morris: Your sense was that there were more women in--

Harris: Yes. There's no sinecure with respect to public office and change of administration, very often--change of personalities--[has meant] fighting the destinies of the women, recognition on the part of the women that some of their foreign neighbors were able to articulate just as well as some of our local people on their rights and their compelling reasons.

Morris: You spoke of there being wars and searching examinations for appointments to the municipal bench.

Harris: That's true.

Morris: Were there any women at a level of visibility where they were considered for municipal court appointments?

Harris: Oh, yes. The consideration grew to a point where it became quite a contest--different groups had their candidates--and the office became more coveted as time wore on. The graduation from a justice court to a municipal court was not a great--I withdraw that.

Morris: You're saying that many of the municipal court judges came from the justice courts.

Harris: In the early--I have to be accurate about this. In the early days the justice court grew out of its swaddling clothes.

Morris: It grew out of its swaddling clothes and was kind of replaced, it looked like.

Harris: Chief Justice Gibson, I mentioned already, had quite a significant [influence] on the justice court--that should be left for separate study. I called Justice Gibson recently on the telephone. He sounded quite well, quite vigorous. I talked to Vickie, his devoted wife, secretary.

Morris: I understand that she's trained as an attorney also.

Harris: Yes. He always has a lot to say, and what he has to say is very well said. So where are we now?

Fellow Municipal Judges

Morris: Let me ask you a bit about your recollections of some of the people who served with you on the municipal court. The best list I could find is from a 1946 Blue Book; by then, you're already on the district court. I hope some of these people served with you on the municipal court. Matthew Brady--he'd been district attorney, hadn't he?

Harris: Yes. He was one of the oldest district attorneys in service.

Morris: Did he replace you, by any chance, when you--?

Harris: No. He had different tenure, different background than mine.

Morris: I gather that there was some question that he might have been district attorney long enough. I wondered if there was some idea that--

Harris: Well, there were little murmurings in the bars and social clubs that he was in office long enough. But he was a very astute man, politically. And he was beloved in certain--

Morris: Was he?

Harris: Yes. He was quite a comedian on the bench, and he quizzed a United States attorney--and anyone he siezed upon. You couldn't become vexed at or provoke Matt Brady.

Morris: Oh, that's interesting.

Harris: He was a master politician, and quite a decent person.

Morris: Was it possibly the interest of other people in running for the job of county district attorney that had a bearing--?

Harris: Well, the district attorney so-called job was the rung next to the judgeship, municipal court judgeship. One almost followed as the day the night. There were some well-trained, well-disciplined men in the office of the United States attorney, more political than they are today.

Morris: Both in the U.S. attorney's office and the district attorney's office?

Harris: Yes. They are less political today than they were then. I think that in the days that we're referring to, it was not uncommon to have several candidates vigorously fighting for the role. See if I can get this chair in a little better-- [stop for pillow]

Morris: We were talking about the young men in the district attorney's office.

Harris: He seemed a little more--not officious--a little more active in seeking higher office.

Morris: So that many people in the district attorney's office saw it as a step on the ladder in their careers.

Harris: Yes, and many of them prospered and reached very high office.

Morris: Do you remember something called the Atherton graft investigation? *

Harris: Yes, I remember the highlights, not the vivid details. Atherton was a member of--[pause]--some investigatory body. The name of the body has escaped my memory. He appeared at a luncheon attended by this particular body, and laid before the membership a portrayal of graft and other charges, unsupported at the time. He became a national figure.

Morris: This was the early 1930s?

Harris: About then.

---

*San Francisco district attorney's year-long investigation of police corruption in San Francisco, conducted by Edward N. Atherton. See special section, San Francisco Chronicle, March 17, 1937.

Morris: Concerning the city and county of San Francisco?

Harris: Mainly the city. It hit the press with a roar, and many of the individuals cast in the role of potential defendants were very apprehensive about the nature of the inquiries and the integrity of Atherton himself.

Morris: Was there some question that the district attorney was reluctant to pursue?

Harris: Yes. There were some, though that's not unusual. Unless, of course, it'd be a flagrant refusal to serve under any conditions.

Morris: Why would a district attorney be reluctant to take action on--?

Harris: It's a matter of personal viewpoint, very often. Personal viewpoint plays such an important role in the judicial process. One man will think the indictment's well founded; another group will say the indictment is not well founded. There you have conflict.

Morris: So that the district attorney and the U.S. attorney have a fair amount of discretion as to what they will prosecute?

Harris: Yes, they do. Great discretion as to what they shall prosecute and what they shall not prosecute. I think the widest discretion has been unfolded in our local courts, where it appears that a prosecution would be futile, unavailing, vexatious, or simply no good for the public weal, the discretion is a wide one.

Morris: "No good"--in the sense of he wouldn't be likely to win--?

Harris: It's a dead dog.

Morris: A jury would not--

Harris: A jury would not be impressed with the evidence.

Morris: So that it was a matter of Mr. Brady deciding there was not enough information there for action on what Mr. Atherton's investigation had produced?

Harris: The Atherton investigation became a by-word. I want to be absolutely fair: I cannot recall the nature of the charges hurled at certain of our leaders.

Morris: Did it ever come to a court case?

Harris: I think it did, yes; I'm not sure of the decision.

Morris: The thing that is puzzling is that the references that I had in conversations like we're having were that it was a major event, but I can't find reference to it in any of the standard California contemporary histories. I wondered what happened to Mr. Atherton. Did he disappear from the scene?

Harris: Yes, Atherton just folded and disappeared. It's true that now that my attention is directed to it, it's true that his efforts may well have been unavailing. It was never referred to in any other role, except in that of an investigation conducted in an orderly way.

Morris: Would this have been a citizen's committee, good government kind of investigation?

Harris: No, I don't think it was. I think at the outset it was Atherton himself, quite alone. He was at a banquet, and at the banquet he made these disclosures which were startling to many people. We didn't have [Joseph] McCarthy in those days, so anything sounded like an investigation.

Morris: Right. But is there a parallel there, that it was one man's concern that something was wrong that touched this off?

Harris: That's right. Self-anointed guardian.

Morris: It might be worth a fast look in the newspaper files to see what I can--

Harris: I think you'll find appropriate references. I think the press handled him very carefully for a long time.

Morris: Did it lead to any noticeable changes in municipal practice?

Harris: No.

Morris: Fascinating. Okay. I've got the two other people on the municipal court bench in San Francisco. There was a Leo Cunningham, and Frank Dunn--

Harris: Leo Cunningham was quite a politician. Quite an actor--Shakespearean actor in his own right. He was trained under Brother Leo at St. Mary's College. I worked in a lot of shows with Leo Cunningham. He died too early.

Morris: I'm sorry to hear that.

Harris: Yes. Nice person.

Morris: Frank Dunn?

Harris: Frank Dunn was one of the older men. He'd been in the justice court. He was a carryover. He did a good workmanlike job, nothing startling, but enough to hold a job.

Morris: As one of the more senior judges, would he have been a mentor and guided a new appointee like yourself?

Harris: Yes, very often.

Morris: On an organized kind of basis, or he just--?

Harris: No, just a personal basis. For instance, if you got into something that was a little bit too difficult, you'd send a call out: Come and help me!

Morris: Good. Well, that is a wise person that knows when to go get some advice.

Harris: Yes.

Morris: Would he come and sit in on the court with you?

Harris: No, after hours.

Morris: On procedural matters, or points of law?

Harris: Any judge worthy of the name I think would be responsive to the complaints of his brethren.

Morris: I was wondering if when you go for advice if you're usually asking for some insight on procedure, or if it's more often the case of how you--

Harris: I guess it's a personal viewpoint that grows up between men when they seek to help one another.

Morris: Joseph Golden?

Harris: Joe Golden was the oldest man on the bench.

Morris: How old would he have been roughly when you went on?

Harris: Oh, as far back as I can remember, he campaigned and was never defeated.

Morris: Did he die in harness, or--?

Harris: Just disappeared. I can't recall whether he died in office or what happened to him. Disappearance, of course, was not an actual one; but on the political scene, unless you continue your activity, you very soon vaporize. Something happens to the name, something happens to the game.

Morris: That's true. And some strange scene changes take place, too. You talked a little bit about John McMahon--

Harris: Joe's mother campaigned for him. She was a very unusual lady. Joe had bushy white hair. He was quite a personality on the bench.

Morris: Did he have some special skill or area that he was particularly noted for?

Harris: No.

Morris: Does this develop on the municipal court, that--

Harris: He developed his career in the lower courts, never gained any high office.

Morris: And was content with the work of the municipal court?

Harris: Right.

Morris: And Twain Michelsen? Do you recall him?

Harris: Yes. Twain Michelsen was a man of ability, although highly controversial.

Morris: In what way?

Harris: In his attitudes toward clients, attitude toward litigants, his attitude generally. He had ability as a municipal judge; he got his calendar out of the way very quickly and smartly. But he was not the most desirable man to try a case before. He'd take over the whole trial of the case himself, and pretty soon he'd be trying your case for you. I got to know him pretty well and very favorably. I got along with him quite well. But when I went on, he was then one of the older men.

Morris: When you say that he'd take over the case, would he not like the way somebody was handling it?

Harris: In terms of procedure, he'd take over on his own motion, on the theory either that he was not satisfied with what you were doing, or he wanted to do matters that he thought more significant. There's nothing unusual about that. The lawyers were not too anxious before him, but yet again, he always had a good score.

Morris: Do lawyers respond favorably to a judge who moves along a case quickly?

Harris: You couldn't actually voice an opinion on that.

Morris: How about Edward Molkenbuhr?

Harris: Eddie Molkenbuhr, also one of the older members and a very able man.

Morris: I can see why you were heralded when you went on the bench as bringing some young and virile energy to the bench.

Harris: I gave to the municipal bench a degree of activity that I think might have been regarded as commendable. I tried a number of important cases. The municipal court is not an easy court. It's very difficult, particularly on the criminal side of the case. You get every conceivable type of controversy on the criminal courts, very heavy litigation. That would apply equally to the civil side. It's not just that easy.

In those days, we did not have a law clerk to help us. Today, I'm quite sure they have law clerks.

Morris: Is there in a sense a senior judge, or presiding--?

Harris: Yes. Every year they rotate.

Morris: Who was the presiding judge when you went on in '41?

Harris: Let me think for a moment.

Morris: We've got a few other names here: Morris, Shapiro, Shumaker, Devine--

Harris: Devine, I think--Preston Devine. He later went to the appellate courts. A very able man.

Morris: Would he have provided any orientation for you coming on as a judge?

Harris: Yes, he would. Alden Ames when I went on the municipal bench took it upon himself to point out a few quirks in the procedures of it, and gave me a good indoctrination. Alden was a Harvard graduate, a very nice gentleman.

The roster of names would indicate some very, very, very fine men. I never lost sight of the fact that my early training on the municipal bench--I had a devotion for my colleagues and enjoyed the

Harris: major responsibilities and major cases. Because cases arose in the lower courts, that's no criteria that they're not important. Some of the cases I tried were quite important. To think of them now, of course, is to charge one's memory with so many extraneous matters.

First Days on the Bench

Morris: Something you might remember that I think would be valuable is: Do you recall what your first day on the bench was like?

Harris: Yes. It was one of apprehension. Although I tried a number of cases, important ones as I said, it's not the seasoning you get from the municipal bench. It's not a nervousness, it's rather a recognition that you've now entered another mode of life. If you are worthy of the name, you do lead another life. You try to avoid the responsibilities of associations as best you can, you try to be courteous to your brother judges. There are so many hallmarks of a good judge. There are so many demands made upon a good judge.

Morris: You're saying that you felt a responsibility to--

Harris: For the first day, the first responsibility that you have is not frightening, certainly, but it's awesome, your power. There's no greater power in the world in the judicial field than a municipal judge. I remember one of the oldest men, Jimmy Conlon--I don't know whether you mentioned his name.

Morris: No.

Harris: Jimmy Conlon was one of the oldest, most revered municipal judges when I went on the bench. He called me in and gave me the litany of the good trial judge. A trial judge, like a trial lawyer, has certain hallmarks.

Morris: What did he feel was the most important hallmarks?

Harris: Organizing your thoughts to a point where you direct them on the actualities of the litigation and not the surmises and conjectures and so forth. And direct your attention to the evidentiary values as they exist and not supposition, inference, or hypothesis. Deal with actualities.

Conlon said something very significant. He said, "Now you will be engaged, George"--he knew me as a trial lawyer--"in the most responsible job a man could have in the judicial field. More so than the superior court, more so than the appellate court. But bear in

Harris: mind a man who may come before you is not represented as adequately as the men in the superior court." As a general observation that's true, because the power of appointment of representation was not then as vigorous as it is today. For instance, when a man goes to trial today, he's represented either by appointment of the public office, or by individual pursuit. But he's represented, and there's nothing to that.

Morris: And in the forties a number of people came before you without any legal representation?

Harris: Oh, not many. But there were some who either didn't have the funds themselves or couldn't borrow it. Now, of course, we have a tremendous organization filled up with the representation of the indigent, which I helped.

Morris: That's one of the things I wanted to ask you about.

The Public Defender System##

Harris: That was a demanding facet of whatever I was able to accomplish as municipal judge. John McMahon, Alphonso Zirpoli, and several others formed a committee to deal with the ever-present, current problems of the representation of the indigent. It was a vast and demanding problem, where really no appropriations had been made, and it was all under voluntary basis.

Morris: Would you have worked with the bar association on this problem?

Harris: Well, it was a matter of education and desire on the part of the bar. But they grasped their responsibilities quite readily, and we were put to the test of providing a workable, effective means of representation of the so-called indigent.

Morris: Would this have been what, about ten percent of the cases that came--

Harris: I'm absent of some notation as to the figures, percentagewise.

Morris: I was just wondering about recollections of some particular instances that made you aware of the fact that this was a serious need.

Harris: I think that there were several incidents that occurred that impelled our activity, particularly the gravity of the situation. It became very apparent that many people were compelled to go to trial without representation.

Morris: On criminal matters, for instance?

Harris: Criminal and civil. Or a veneer of help was given to them that was not really actual, but somewhat artificial, pro forma.

Morris: From the district attorney's office?

Harris: No, I wouldn't voice it at the door of anyone. The condition had grown up.

Morris: Was your attention directed to getting more attorneys in private practice to volunteer their time to do this?

Harris: Yes. And the response was quite significant and very helpful. In all the years that I've been on the bench, I've always found the bar association quite responsive to the demands made upon them; and sometimes the demands are very heavy and very meaningful.

Morris: Did they set up a committee or their own to--?

Harris: Yes, they had their own committee, their own means; then they had the dovetailing the activities, coordination. Much of the help that we were able to derive from the bar association was made manifold when we came to the contribution made by the bar itself, as well as the trial lawyers. The trial lawyers represented many of the cases.

Morris: That's a separate organization?

Harris: It's the bar association, separate from the state bar.

Morris: Right, and then there's also a trial lawyers' association.

Harris: Right.

Morris: How would their response have differed from the bar association?

Harris: The bar association is a statewide organization. The State Bar of California is another entity. Between them all they dovetail their activities and come up with a good job. One's activity is in one area, and another--

Morris: My understanding is that the federal courts had already some kind of a procedure for appointing someone as a public defender when there was a need.

Harris: The federal court for some time has been the defender of the rights of the unwary and the defender of the rights of the individual who may not be represented.

Morris: At some point did you seek an appropriation in the court budget to provide for this service?

Harria: We sought appropriation through the budgets, through public grants, and through all the media at our command. Commendably, the public response was excellent when the true values were felt.

Morris: When you say "public response," did you have some kind of subscription fund that people could just send in money to?

Harris: Yes. The fund was a public fund, open to public aids at any time. It represented the contributions--voluntary--it represented fines, every factor known to man was sieged upon.

Morris: You used some of the money that was taken in in fines to put in the public defender's fund?

Harris: Yes.

Morris: Oh. That's an interesting idea. Some special kind of fines were earmarked for this use?

Harris: I can't recall.

Morrsi: Was this a difficult proposition to develop support for? Was there any objection to it?

Harris: No. It became pro forma. Even now it's constantly under scrutiny and vigorous analysis. The lawyers--the claim has been made that several people, if not many people, take advantage of the public defender system, and are otherwise able to pay out of their own pocket funds for the defense of their relatives and friends, or just general citizens. If there's sufficient cause, a hearing is conducted, sometimes a vigorous hearing, whether or not the individual is entitled to public funds for his defense.

Morris: Is there some kind of standard eligibility procedure that somebody has to go through?

Harris: Yes, not standard, but--

Morris: An eligibility procedure.

Harris: They're subject to exploration after the investigation, sometimes very vigorously. I think by and large the mechanics of the representation of the indigent is well in hand and quite beyond the political considerations.

Morris: When you began to get some funds to pay a public defender, did that increase the number of persons who were available to provide this service?

Harris: The appointment of a public defender necessarily would include a staff, and the staff members generally are pretty good lawyers in the defense field.

Morris: That was a later development, wasn't it, to have actually a staff of public defenders in the district attorney's office?

Harris: Yes. Formerly it was just that one man. That has grown to a very formidable group now. I don't know how many men are in the defender's office, but some very excellent trial lawyers.

Morris: It's become a form of public interest law, hasn't it?

Harris: Right. I'm very proud of the activities of the defender's office. Several men have gone to high office.

Morris: Some of them have come on the bench, haven't they?

Harris: Some of them on the bench.

Morris: Are there still attorneys in private law firms who provide their services without charge?

Harris: Yes.

Morris: Did an actual staff public defender, did that take place while you were still on the municipal court bench?

Harris: My recollection is that it did.

Morris: Is that something that the district attorney and the presiding judge of the municipal court will work out together?

Harris: They act in joint service, yes.

Morris: It sounds like the relationship between the district attorney's office and the local courts is rather a complex and important one for the orderly business of the court.

Harris: Coordination, yes. The cooperation between the two divisions has been manifest even from the time that I started. It has become manifest that the public defender system is one that must be maintained in the highest level, free of all political considerations. That's being attained, I understand.

Morris: In the forties, when you were on the municipal court, was Phil Gibson active in this business of developing a public defender?

Harris: Yes. He'd very often call me in, and bring himself up to date on matters in our court. Phil Gibson was a very active, very fair, very honorable man.

Morris: In his efforts to improve court administration, would he rely a lot on the San Francisco courts as kind of a demonstration of what he was trying to achieve?

Harris: As demonstrative of a problem, yes. But as to interpretation, no. He'd seek interpretation from various sectors, various actors in the plane, and all in all take into consideration the most salient features.

Morris: Was he getting suggestions from the local courts as to what ought to be done?

Harris: Constantly.

Morris: Why was it that it was in the forties that there were so many changes in the operations?

Harris: Like anything new, interference follows it as the day the night. It was not thrashed out. The lawyer very quietly and painstakingly usually makes a very, very commendable analysis. Maybe there were just reasons for complaint.

Morris: Was it that people had been content the way things were and Gibson had more energy and initiative, maybe, than others?

Harris: I think you're right--the situation we're in. This had been going on some time. It's expensive to put in a defender's system; uniform construction is necessary or we can't do that. All of these different plaints would arise and would have to be met and overcome. So it wasn't an easy task at the threshold, but then it became more provident and more feasible. As feasibility entered, many of the arguments went out the window.

Morris: So your impression is that it had a different course in different counties?

Harris: That would be generating activity, activities generated in different forms, different kinds, different citizenry, different populace. The whole values are different. The metropolitan area of San Francisco is a liberal one: they'll do much of anything to create favorable consideration. Are you getting this on tape all right?

Morris: I think it's coming through beautifully. Is there anything else that you'd like to say about starting the public defender's office?

Harris: No, excepting that the uniform application now is commendable.

Morris: It has now become a part of the regular operation of all courts?

Harris: Yes.

Morris: That might be a good place to stop for today, if you'd like to.

Harris: You're the boss.

Selective Service Appeals Board

Morris: The other thing you might think about that I'd like to ask you a little about next week is if there were any special kinds of cases that came before you during World War II: selective service--

Harris: I'd rather reserve comment until I take a look at the books.

Morris: All right.

Harris: I served on the draft board's appellate board for a long time. That was another service that became very efficient in its application and administration. I helped organize it and drafted the legislation in part.

Morris: What kinds of issues would young men be seeking exemption--?

Harris: For every conceivable type of issue. Every conceivable issue that a man could conjure in his mind.

Morris: Would you say it was a sizable percentage of young men that were called who sought to postpone their military service, or--?

Harris: I think it just grew by public necessity and by virtue of demands made. People would have to be represented, and the draft cases were represented by able counsel.

Morris: Was that an actual legal proceeding? The draft hearings?

Harris: Oh, yes. All legal rights were exhausted.

Morris: So the draft board had an actual legal aspect of its duties.

Harris: The draft board had commendable lawyers representing and advising them. So we have reached a point now where we adjourn to when?

Morris: Whatever your pleasure is.

Harris: I think we've covered the municipal court.

Morris: Okay. Then I'd like to plunge into the negotiations for your going on to the district court. I gather there was considerable correspondence regarding the workload of the court and the need for additional judges on the district court. I can put that in a memo so you can collect your thoughts on it before next week.

Harris: All right.

Challenges of the Municipal Court##

[Interview 6: June 6, 1980]

Morris: In several of the articles about your work, you are quoted as saying that you found the municipal court was a very challenging kind of service.* I wonder if you could expand on that a little bit for me?

Harris: Yes. The range of cases entertained and passed upon by the municipal courts and judges represents a most challenging range of devoted service. The court hears matters of grave importance to the community, and the issues finely joined are inviting and challenging.

The graduates from the municipal court are generally found in the higher echelons of the superior court after some years of service.

Morris: Does that mean that most of the people who go on the municipal court bench don't expect to make a career there, they expect to go on to another level?

Harris: They expect a career.

---

*In The Brief Case for March, 1962, Judge Harris commented that he "regards that court as the finest training ground in the world for a young judge. 'It is the most important court in the land. So many people--the little people--never get into any other court. And the judges there handle the bulk of the work, cases which have to be decided with rapidity'."

Morris: They expect to go on to higher court.

Harris: Yes, to a higher court. That's the expectation. When it fails, it's only as a result of the judge not participating to the fullest, because it gives such a range of work that your disposition and judicial temperament is thoroughly exposed to the community.

I notice one of the judges in San Mateo County--I think it's San Mateo--running for re-election. In his newspaper ad, he said that he was regarded as a difficult judge, and a very tough judge. This is in his credential. I just wondered how far we've gone in understanding the judicial process, to acquaint the judiciary and the public as well that being a tough judge is more than just a sinecure, is just what it implies. I suppose it's probably born of the fact that many cruel and unusual cases fall to their lot, and they like the public to know and understand that.

[coffee and pastry break]

Harris: The statement manifest in the newspaper indicated that this judge is campaigning directly on a tough record.

Morris: That he's a tough judge?

Harris: He's a tough judge, and that's a very unusual role you're placed in. Because I think it anticipates a degree of not only toughness but general attitude. I suppose it's designed to take care of the borderline cases, which are regarded as very severe.

Morris: In the sense that he's responding to community expressions in favor of being, quote, "Tough on crime?"

Harris: Not in my time.

Morris: Well, that is what I was going to ask you. In the forties--?

Harris: There's a completely different attitude now. When we sat on the bench at that time there was a graciousness, I think. That is a priceless heritage, that even being tough can be a graceful thing.

Morris: Now, that's interesting. How can you be tough gracefully?

Harris: You can be tough because you can make it manifest to the defendant, not by curtness but principally by making the defendant understand and his colleagues and lawyers understand, that there's no room in the community for that type of person and that the courts go or the person goes.

Some of the crimes recently noted by the press are most heinous and require the degree of punishment to be commensurate with the degree of the crime. Just to say a person is tough doesn't indicate

Harris: either on intellectual pursuit or a general attitude--toughness, of course, can be a worthy course in any man's career when the facts invite it. But I say it's a miscarriage to have a judge lean over backwards long before the case comes before him and start indicating what he's going to do and what he isn't going to do. There are abuses, and there were abuses in my time. They were singled out in the community, certain judges that were notoriously tough. All the lawyers sought to avoid the consequences of being assigned to that court.

Morris: Who was known as a tough judge when you were on the municipal bench?

Harris: Well, I can only tell you what a comparison justifies. When I first came on the municipal bench, there were several judges whose past record indicated that they looked at the top line of sentences and singled out the defendant to a sentence commensurate with the crime. [pause]

Morris: When you say "top line of sentences," does that mean the most severe sentence for a given type of offense?

Harris: Yes. It would be a long treatise to invite a court to pursue, if we attempt to single out the tough judges and the so-called lenient judges. A lenient judge doesn't necessarily mean one that's going to give the courthouse away. The lenient judge probably would be considered lenient in terms of the sentence, and the parole period, probationary periods and so forth. I think that's about the summation of it.

Morris: Was the feeling when you were on the municipal court that the judges should respond to the general community attitudes?

Harris: No, I don't think that the general community should control the destinies of a court, be it an implied assignment to be tough or be it an expressed assignment to be tough. Certainly you can't go around with a bag of charity and indulge yourself. There's a middle ground of devotion that means no more nor less than you'll apply the facts and come to a conclusion that is just and equitable.

There have been some shocking sentences recently. I'm not going to single them out because I think it would be unfair. But there have been some shocking sentences indicating a lesser degree of punishment is inviting in certain quarters. That isn't the general attitude, because the public has been alarmed recently by the leniency indicated by certain judges. That leniency is justified or not depending upon the nature of the crime and the punishment meted out.

Harris: It would be a sorry day if I were permitted, in the position I now occupy, to sit down and criticize a given judge for his conduct, because there are so many factors involved in a just sentence. I think a defendant is entitled to all of the statutory safeguards and all of the traditions that are manifest in a good court. I think our municipal court is essentially a good court, a worthy court, and a court of sustained competence.

Morris: When you were on the municipal court, was there any effort by the judges in general to talk with one of the judges that was considered a tough judge?

Harris: I don't know that any conversations were ever exposed to general invitation of the public. But I know that a wary judge would make it possible to invite attention to his decisions by proper means and state all the reasons why, under proper means and proper jurisdiction, a given defendant might suffer the extreme penalty.

Morris: I was thinking about it in terms of the operation of the municipal court as a whole. There were eight or nine judges sitting on the court when you were on it--

Harris: Sitting as whole, it was a good court, worthy of the name. We were a good court.

Duties of a Presiding Judge

Morris: Was the presiding judge selected by election, or did it rotate among each of you?

Harris: Rotate.

Morris: So that you would have had your turn as presiding judge?

Harris: Yes, I did my duty.

Morris: Are there extra responsibilities for being a presiding judge?

Harris: Yes, there are many, many, many, many, many added responsibilities. The calendar commission is one; the jury commission is another; supervising a calendar that's not only burdensome but almost beyond solution.

Morris: How does the presiding judge go about making the assignment to the judges?

Harris: He makes the assignments from the general order of things, without pre-selection and without pre-ordaining it. He takes it in the natural flow of business.

Morris: As the case comes up and is ready for trial--

Harris: That's a mechanical thing.

Morris: --you assign it to a person who's about to complete a trial?

Harris: That's right. Under pure mechanism of assignment. No favoritism, no nothing.

Morris: Can a judge come to the presiding judge and say, "I really would rather not sit on this case?"

Harris: Yes, and then state the reasons if he desires. Just that he feels that he's in a sense disqualified from hearing the matter.

Morris: Would this be because of personal knowledge of the case or--?

Harris: It depends. Generally when a given judge invites the attention of the chief judge to a given set of circumstances supporting disqualification, there's no argument about it. It's finalized right then and there. No debating.

Morris: In municipal court was there a kind of a pattern maybe that some judges were better on some kinds of cases?

Harris: That's true. Certain judges specialize and achieve a degree of competence that's a little bit greater than just the ordinary run of the mill. When you consider the wide jurisdiction of the municipal court, you can see that it must, in order to run, have competent people. It's a challenging job.

Morris: What kinds of cases did you find yourself either specializing in--?

Harris: I found the criminal cases very demanding.

Morris: Because of the nature of--?

Harris: Because of the nature of the offenses that were being considered, and the wide range of cases being considered.

Morris: Did you find yourself specializing, then, in criminal cases?

Harris: No.

Morris: Were any of them sufficiently challenging or interesting that you still recall them as criminal cases that you dealt with on the municipal court?

[pause for thought]

Harris: In fairness to the record, I would be indulging myself if I sought to impose a recollection of so many years. It would be impossible for me with any degree of accuracy to point to any given case as demanding or more demanding than others.

Morris: How about jury selection when you were doing your first term as presiding judge?

Harris: Jury selection has changed radically over the years. It now presents a wide range of jurors able and willing to go to work deciding the cases.

The municipal court has been able to cope with the hard demands of a lengthy calendar, but it is a difficult court. It's difficult in its terms of the degree of punishment, in terms of the necessities of the situation. It requires skilled men, men of devotion to discharge their responsibilities.

Morris: Does it require a close working relationship with the district attorney's office?

Harris: No, it doesn't reach the proportions. The district attorney by the very nature of things is to some extent political. The person charged with the responsibility of running it must sense that in some degree without indulging himself on a court.

Morris: Are there not technical requirements for many of the cases brought in by the district attorney's office to the municipal court?

Harris: Technical requirement?

Morris: That in certain kinds of cases, it's the district attorney that brings the matter to trial?

Harris: No, I think they're brought on the calendar automatically. After the cases are at issue, I think it's purely mechanical. The degree of time occupied is a factor, of course.

Morris: But to what extent are there, in municipal court, cases in which the county has brought action against someone?

Harris: The county necessarily is the litigant in many cases. I've never seen a case differentiated by either the district attorney's office or any other agency receive any favoritism or any indulgences. I don't think any public complaint's ever been made; it may be possible.

Morris: You said a little bit about the municipal court judges developing some specialties in some kinds of cases--how about the attorneys coming to--?

Harris: That's true.

Morris: Were you beginning to notice that in your term on the municipal court? That attorneys were more specialized?

Harris: That's true.

Morris: So, you'd come to expect a certain attorney if it was a certain kind of a case, perhaps?

Harris: And/or certain law offices handling certain cases, and to a degree being specialized.

Morris: Were there some law offices that specialized in matters that would come to municipal court?

Harris: That's true.

Selective Service Proceedings and Administrative Law

Morris: Another area that you talked about a little bit last time was the hearing procedures that you helped to develop for the selective service board during World War II.

Harris: In the first instance, that was a very trying and demanding process, because we had men untrained in the judiciary passing upon critical rights of the persons brought before the board. I found generally that there was a high degree of competence and a high degree of effort to accord the accused, or the participants, every advantage known to the law. Our reviews were orderly and just, and I can't now recall any severe complaints that we ever suffered.

Morris: Did you in a sense provide some training for the people selected to be on the hearing committee?

Harris: Oh, yes. We had some pretty well-respected lawyers on the board. My recollection now is Al Zirpoli was one (now Judge Zirpoli).

Morris: Would a selective service hearing board be in the area that's called administrative law?

Harris: Yes, essentially administrative.

Morris: Right. In that their actions are based on the rules and regulations of their particular agency. Has administrative law expanded in the time that you've been serving on the bench?

Harris: Oh, yes. Administrative law is probably the most active that we have. There are very few cases that do not fall--put it this way--most of the cases entertained by the lower courts are administrative in their initial phases. Sometimes they broaden out into a consideration of the several writs, but largely it's in a court trying administrative cases, rather.

Morris: Does the increase in administrative--

Harris: Demands?

Morris: No, I'm thinking of the business of administrative law still. Does that move into areas that used to be the province of the courts proper, or is just there's been an--?

Harris: That's true. It's largely in the matters of the court in broad generalization.

Morris: But it doesn't seem to have cut down the work of the courts.

Harris: The courts are increasing constantly. Instead of four judges, they have twenty-four judges.

Morris: [laughs] That's quite a growth.

Harris: That's said facetiously.

Morris: Do the rulings of an administrative court then become part of the body of material that a judge needs to consider in precedents?

Harris: That would be a difficult thing to answer concisely and precisely. It would almost require a minute inspection of records and so forth. I don't think I could enlarge too much.

Morris: Well, I'm not sure that I'm prepared to ask you the right questions on it, either; but as an area that--

Harris: It's difficult, a difficult area.

Morris: --for future study, is that one that has had a significant influence on the work of the courts?

Harris: That's a fair statement.

Morris: One last question on selective service: was it a major issue during World War II? Were there considerable numbers of young people who did not want to serve in the military?

Harris: Yes, it was a heartbreaking experience for many judges, and I must include myself, to pass judgment on many young men, because the sincerity of their part was manifest from the nature of the testimony that they gave. That's enough. Period.

Morris: I was thinking in a comparative sense. We came through a period in the 1960s when there was a very strong, publicly-visible resistance to military service. I don't remember a similar number of young people ready to go to jail to avoid military service during World War II.

Harris: It's a long period of time to consider. My recollection is that there were very few cases that demanded the attention of a hearing body. Generally the processing in the first instance was all-embracing and all-inclusive.

Probation, State and Federal

Morris: Another area that I think is valuable to have your views on is the municipal court's role in probation and supervision of defendants.

Harris: That almost is a separate study. That would require an infinite amount of time to really process. The records would have to be examined carefully.

Morris: I believe you were involved in an extensive study of probation procedures on the district court. I was wondering if anything like that had happened in your municipal court service.

Harris: I couldn't make a comparison. The factors involved are entirely different. Probation in the federal court has grown up to such an extent that--[pause]-- The factor of probation in a given case presents some of the most critical questions imposed upon both the federal courts and the state courts. To accord a man a real hearing and a probationary period is one of the most challenging questions that we have, because there you have split decisions; you have a vanguard, if you please, of difficult roles that must be assumed. I look upon probation as the safeguard of any court, be it municipal, superior, or appellate.

Morris: Including federal.

Harris: Including federal.

Morris: You say "safeguard of the court."

Harris: Over the years that I've been privileged to sit, we've had a broad view of some very competent men as probation officers, career men who are willing to devote an extraordinary amount of--

##

Morris: I'd like to explore a little more this idea of probation as a safeguard of the court. Is that in the sense of a review of whether the conditions at the--?

Harris: It gives an opportunity, number one, for intensive study of a man's career before passing ultimate judgment. It provides for a fair, intellectual approach by the probation officer, covering a wide range of problems. It involves a complete study of the man's career from the time he's born, by competent men. It's not simply a matter of passing notice, but an application of sincere study on the part of the officer.

In both courts, state and federal, we have had a high degree of performance on the part of the officers. They're a select group and eager to help the court in every sense of the word. It's a refreshing experience that I had with both the agencies, that is the federal and municipal, as giving an opportunity on the part of the courts to give the defendant every ounce of vitality to a meaningful document; that is, a decree of probation.

Morris: Is this the review that is made after the trial and before the judge issues a sentence in a case?

Harris: All of the subject matter of the probationary motions are carefully processed before sentence. In order to safeguard that, very often a case is reopened for additional testimony, as a result of the recommendation of a probation officer.

Morris: Even though it's been a jury case, and the jury has rendered its verdict?

Harris: Yes.

Morris: In that case, is the jury brought back in to hear the additional information?

Harris: Under certain grave considerations, yes.

Morris: That's very helpful, because I think in the general public's mind, probation is thought of in the much narrower sense as the public interest in the behavior of a person after they have been in jail.

Harris: I can't conceive [pause] any degree of differentiation.

Morris: Is the sentencing of a person who has been found guilty a more arduous task for a judge than rendering an amount of damages or something relating to property?

Harris: I missed the last part.

Morris: Let me see if I can phrase it more efficiently. Is--

Harris: It's efficient, but I--

Morris: Is it more difficult for a judge to pass sentence on somebody who has been found guilty, and is presumably going to be required to go to prison. Is that a harder decision than a case of a dispute over property?

Harris: I would think so. The decisions become more grave and hard, in terms of processing facilities. An office capable of handling major cases is an office that perforce must take into consideration every factor as guilt and/or innocence. Under the circumstances, it doesn't require a perfunctory, but an all-embracing view of the evidence as a whole. Those are not mere words, those are working words; words that have to be met.

There are occasions when you run into a situation where the probation officer might be regarded as lenient. Those cases are not considerable and ordinarily receive a fair hearing.

Juvenile Court; Assignments to Superior Court

Morris: When you were on the municipal court, was there a separate juvenile section, or would all judges handle some juvenile cases?

Harris: No, there's no separate business section. Sometimes you wonder about that, because it might be more efficient if you had a so-called business section. But then again it would be criticized because of splitting different areas of decision and adding another body of trained men, considering the expense involved, and all of the other factors.

Morris: So that civil cases and criminal cases were handled by the same judges.

Harris: The same judges.

Morris: How about cases involving young people?

Harris: That's the juvenile--

Morris: Was there a separate juvenile court?

Harris: Yes, juvenile court--very difficult court.

Morris: Did you serve on that at all?

Harris: Yes. Everyone has to serve on all the courts.

Morris: Why is the juvenile court more difficult?

Harris: The youngsters--[pause]--the youngsters involved find it difficult to adjust themselves in very many instances to a workaday career--strike all that. The juvenile court is a difficult court by reason of the nature of the decisions that are made, and the nature of the defendants. They're [usually] all young men and require patient and considerable attention.

Usually, the juvenile court judge remains in his office for a considerable length of time, sometimes many years. I'm mindful of men who should receive the accolade of approval and merit. Mel Cronin is one. Very able and very thoughtful judge, particularly in the juvenile court. He held that office for many, many years, and drew great distinction.

Morris: When you were on the municipal court in the forties, there were some major changes underway in the juvenile correction system in California. The Youth Authority was trying to develop new kinds of--

Harris: I have no recollection.

Morris: I was wondering if the courts would be involved in that. Or if the kind of correctional facilities available in which to house a young person, if that would ever have an effect on the kind of decision that was reached?

Harris: It probably would. Probably would.

Morris: We've touched on superior court a couple of times. Did you have occasion to have a temporary service on the superior court?

Harris: Temporary and by appointment from the state supreme court.

Morris: How does that work?

Harris: Just by a simple order. The chief justice assigns a given judge to a given court, and it breaks through the barriers of a lot of technical requirements. The appointment generally gives to a municipal judge an opportunity to serve on the higher courts without permanent designation--by temporary designation.

Morris: It sounds like a way of seeing if he's ready for greater responsibility.

Harris: It could be.

Morris: Was this the kind of thing that Chief Justice Gibson would talk to you about?

Harris: Yes, very often, as to the general--I'm afraid I'm not coming through.

Morris: I think it's doing fine. I've got a volume control here.

Harris: I still have a persistent cold.

Morris: Would you like a glass of water?

Harris: Yes, that would be good. We'll take a short recess. [brief tape interruption]

Morris: We were talking about conversations with Judge Gibson about serving on the superior court.

Harris: From time to time Judge Gibson would inquire not only of George Harris, but of practically all of the sitting judges, so that he would have a background of information reliable and pertinent and material.

Chief Justice Gibson, of course, was one of the most admired men ever to sit in the supreme court of California, because he gave so unstintedly of himself and such devotion to the court. I can't believe that he's been properly rewarded, but I'm sure someday he will be noticed among the greats.

Morris: I think it's a step in that direction to have the recollections of people like yourself who he encouraged to broaden their experience.

Harris: I think so. I think it is.

Morris: How would this work? If you were sitting on the superior court, you would not be available for municipal court service. Would that cause any problems in terms of the caseload of San Francisco municipal court?

Harris: I don't think so.

Morris: Would you sit for three or four months at a time on superior court?

Harris: By assignment and by order, so that the jurisdiction of the court's maintained. It's not done out of hand, but after processing, making appropriate orders.

Morris: How does superior court differ in the way you would handle a case from the municipal court?

Harris: There's no difference, in procedure. All procedural techniques are available to both courts. All the writs: habeas corpus, prohibition, and so forth, certiorari, are all available to both courts. It's a statutory court with wide jurisdiction and a very useful court.

Morris: A very useful court.

Harris: Very useful. It's one of the great facilities of a sitting judge.

Morris: To be able to send a case to superior court?

Harris: Under given circumstances.

Morris: Informally, are there any differences in the relations between judges sitting on the superior court?

Harris: No.

Morris: You're physically all in the same building, aren't you? The municipal courts and the superior courts? Or were in your time.

Harris: I think so.

Morris: Are there any other aspects of municipal court service that you would like to include for the record and for the enlightenment of future potential judges?

Harris: I think not. Absent a series of facts and circumstances larger than we presently survey, absent that, I would say what we've conducted is sufficiently embracing to give a predicate for any useful recommendations available.

Morris: Thank you. That's helpful. It's helpful too as a basis for understanding the role of the district court.

VI BECOMING A FEDERAL JUDGE

Appointment to the Northern District Court of California, 1946

Morris: While you were on the municipal court, were you aware of the activities of the federal courts and of their concerns about staff?

Harris: Not until a given situation was presented. Some of the judges, of course, are better students than other judges. In those instances, maybe a wider range of application would be justified. There are many factors that are in the very nature of things not inclusive, or not all-inclusive, and a given set of circumstances might afford a given predicate for useful recommendations.

Morris: Were you aware of the concern about the caseloads of the district court and efforts to get additional judges on that court?

Harris: Yes, constantly. Ever since I came on the court. It's a very, very difficult situation to get the number of men needed, of skilled men, competent men.

Morris: As early as October 1945, Tom Clark, who was then the U.S. Attorney General, was in contact with the Senate Judiciary Committee, providing information to support the requests for an additional judge for the Northern District Court of California. He reported that the early history of the Northern District was that there were temporary positions and time limits on making appointments to the Northern District Court.* The last additional position had been created in July 1942, which was the fourth permanent judge for the district court.

---

*Letter, October 25, 1945, Tom Clark to Pat McCarran, chairman, Senate Judiciary Committee, and letter, January 6, 1946, Will Shafroth, U.S. courts administrative office, to Sheridan Downey, Senator from California. Both in binder on Judge Harris's induction to the federal court.

Harris: That's possibly true.

Morris: This is from letters that I found in the binder on your appointment to the district court. It was very helpful. I was wondering if there was some kind of a committee or group in San Francisco that was urging the creation of an additional judgeship for the district court.

Harris: Other than the spontaneity of those groups charged with the responsibility of recommending, there was no official body that I can recall. It may have grown up since I served in the federal side, but there's no official body.

Morris: The bar association--?

Harris: The bar association uniformly is on top of that.

Morris: Did they maintain an interest in making--?

Harris: Oh, constantly. Visitations upon the court, and the bar association is most attentive.

Morris: You say visitations upon the court. They send a committee to say it's time we should have another judge?

Harris: Yes.

Morris: I would think the presiding judge would be happy to receive such a--

Harris: They have decrees.

Morris: Who is particularly active in the bar association?

Harris: Jack Sutro. Without minimizing the work of many, many others, Sutro has shown a great diligence.

Morris: In matters related to court?

Harris: In the personnel. Very often--that's enough.

Morris: You might tell me for my own understanding.

Harris: Over a lifetime, there are many individuals who provide great help for the judiciary, and they never heard of accepting any of the plaudits. I believe that they should be rewarded by appropriate notice.

Morris: Was Mr. Sutro head of the bar association at that point, or on a committee?

Harris: At one time he was. That also is a body that succeeds itself.

Morris: They appoint their own officers?

Harris: They get their own officers, own directors.

Morris: Do the sitting members of the court--is it customary for them to remain active in the bar association?

Harris: No.

Morris: So going on the bench removes you from an area of activity that you've been involved in before?

Harris: Yes.

Morris: Is that a hardship?

Harris: No. It's a responsibility that's grave, but not a hardship.

Morris: Some of these statistics are interesting, and the general drift of them is that the northern--

Harris: Statistics on what?

Morris: Statistics on the Northern District Court in the 1940s, leading up to your appointment to it. That the Northern District Court in California handled more cases than other district courts, with fewer judges, and that the average elapsed time on the disposition of cases was several months less than the average for other district courts. I wondered if you could shed any light on why the district court in California, Northern District, handled so much more business than other courts?

Harris: I didn't know that. I didn't know that statistic was available.

Morris: I don't know if they still maintain these records; but this report that I'm quoting looked like a regular periodic statistical summary. At the time, you probably wouldn't have been aware of the volume of cases, but the recommendation from California was for two additional judges, and Attorney General Clark recommended just one.

Harris: After a survey is made by the competent authority, recommendations are made of wide importance on the number of judges available for selection, and the number of vacancies available. Those statistics represent a lifetime of application; they're quite meaningless unless read in the light of the experience of the court and the necessities of the court. There's a high degree of responsibility, and not temporized. I mentioned Jack Sutro as one who appreciates this, and there are others over the years who gave very unstintedly of their energies. That's about all I could add.

Morris: Right. I was wondering at what point you were aware there was going to be an additional judgeship on there.

Harris: Oh, yes. Sure. Everyone is alerted to that, officially and otherwise. There's no mystery about it.

Morris: Did you talk to anybody about the possibility of yourself being a candidate for that position?

Harris: No.

Morris: How does it come about that a person is--?

Harris: It came about as a result of the vacancy, as a result of the fact that I must have shown a competence; otherwise they wouldn't come to me at all, they would avoid me. I think the natural order of things dictates certain successive steps, and that no individual generates them.

Of course, a given man or a given body of men may be considered constantly alert to advancement as a matter of right and as a matter of succession. Those are the individuals that are considered.

Morris: In other words, at any one time, there are what--two or three people who are the likely candidates?

Harris: Yes, they've been studied over--. You see, the investigation conducted by the FBI is an all-searching one. When that is completed, and the bar association finishes, a given candidate is pretty well understood.

Morris: To be in the running?

Harris: Yes.

Morris: Are the FBI investigation and the bar association investigation made before any negotiations are underway with the Senator who makes the nomination, or are they going on at the same time?

Harris: I don't know the answer.

Morris: In the binder of letters and other documents relating to your appointment to the Northern District Court, there is a note from I.M. Peckham, which sounds as if he was very much supporting Judge Harris's promotion to the Northern District Court. Were you aware of his efforts in your behalf?

Harris: I.M. Peckham?

Morris: Right.

Harris: Yes, he was interested in my career for a long period of time. He's related to Judge Peckham of the federal court. Yes.

Morris: How had you and I.M. Peckham become friendly?

Harris: Through the Pioneer Society. He was very active.

Morris: Were there other young judges like yourself whose career he kept an interest in?

Harris: I think so.

Morris: Stop just a minute and I'll start a new tape.

##

Morris: I understand that both U.S. Senators for the district are involved in nominations for the district court?

Harris: That's a matter of agreement between the Senators. They have their own agreements, and they have their own vistas. They have their own reasons for endorsement, some of which, of course, are political.

Morris: In 1946, when additional judgeship was approved, we have William Knowland as the Senator from California, and Sheridan Downey. Sheridan Downey was the senior Senator.

Harris: Sheridan Downey was the Senator who sponsored my candidacy.

Morris: Did you and Sheridan Downey have any discussions about the appointment?

Harris: Yes.

Morris: What kinds of things was he interested in?

Harris: The attitude of an applicant, general background of experience, the usual considerations.

Morris: How about confirmation?

Harris: Confirmation.

Morris: In the Senate Judiciary Committee. Doesn't it have a say in confirming nominations to the federal bench?

Harris: Yes. That's another area of activity that I think would be time-consuming--

Morris: But fascinating.

Harris: --and fascinating, if one had the time.

Morris: I'd be interested in what you recall--

Harris: I have no comments, really, because I'd be invading the energies of a committee whose work is only remotely connected, from time to time. I don't see--I withdraw that. Can you tell me how that would be relevant to our investigation?

Morris: I think it might be from the point of view that the judiciary committee's concerns presumably would have an effect as to whether or not they confirmed a specific nominee for the federal district court. Their concerns would presumably lead them to indicate that they would confirm this candidate, but they would not confirm--

Harris: In anticipating, I don't think so.

Morris: The indications are that there is fairly strong interest, that there are several bodies of strong interest, supporting various candidates.

Harris: I don't doubt that.

Morris: I guess from the point of view of historical reconstruction, the question is: What factors led to person "A" being appointed and person "B" not being appointed?

Harris: Then you get into such a wide, wide consideration of qualification that I just don't think it bears the—I withdraw that. I'm trying to give you the best knowledge that I have on the subject; but I feel that whatever I might say on it would either be irrelevant or immaterial. I just can't see how I, sitting here, would be able to pass judgment in that area. That's another field of endeavor.

Morris: Did the committee ask you to come to Washington and talk with them?

Harris: No.

Morris: Okay; that's useful there.

Harris: No. One of the Senators invited me to his chambers--the Senator from Oakland--

Morris: The Senator from Oakland did invite you to his chambers.

Harris: Yes. I recall particularly it was a Sunday afternoon. We had an interesting conversation; not about this job, but he was a very cordial man. Downey, of course, I met from time to time. I was always available to meet a United States Senator.

Morris: I would think that would be a matter of more than passing interest. The Senator from Oakland would have been Bill Knowland.

Harris: Oh, yes.

Morris: He'd only shortly been appointed Senator himself. He was appointed in 1945 by Earl Warren. You may well have been the first federal judge appointed after he became a Senator.

Harris: This was before I was on the federal bench.

Morris: He wanted to talk to you, but he didn't want to talk about the work of the district court?

Harris: It was not quite that. He had a levity about the thing that was refreshing; he was not a ponderous person. I found him very engaging and quite a gentleman.

Morris: Now, that's an interesting recollection, because many people have commented that Bill Knowland was very distant and reserved kind of a person.

Harris: No, I don't think so. He was an outgoing man. I'd recall him as a conservative.

Oakland always had its participation, always had its voice, and the voice of Oakland was heard many times.

Morris: In the deliberations of the district court?

Harris: In deliberations. [pause]

Morris: There are some marvelous comments in the letters that your friends and supporters wrote to you. This is one in June of 1946, from a man named Charles Douglas, who says: "About two weeks ago, our mutual friend phoned me that he had heard from Washington, and that you were secure. I told him he was an optimist, and that all we could do was to hold." I wondered if your recollection is that it was as early as the first week in June of 1946 that you got some indication that your appointment was going to be approved?

Harris: It could have been. I did not have any preordained voice, nor did I have preordained information.

Morris: There are quite a few letters that suggest that people had written on your behalf.

Harris: That's understandable.

Morris: Was somebody organizing these letters and asking people to write them?

Harris: No, they become part of a public press, and the press, of course, notices what they want to notice and what they don't want to notice. I didn't have any inner sanctum to require the--

Morris: Would the press have come and talked to you about it, and said--

Harris: They may well have; I don't remember. I was available at all times.

Morris: Was your feeling that you were ready to move on and that you'd like to go on to another court?

Harris: Any man who says to the contrary is not expanding on the truth [Morris laughs], because that's a natural inclination of the human being, to want to better himself, either in the circuit court or the district court.

Morris: So you were ready when the notice came that your nomination had been confirmed.

Harris: I was ready to move on.

Morris: Did this involve any actual contact with Harry Truman, who was president then?

Harris: No, I was not close to Harry Truman in any sense of the political world. I was an intense admirer of his; but Truman knew me only as a working judge, and that's about it. I had no in at all with Harry Truman.

Morris: The official record says that you were appointed by Harry Truman, and I wondered if--

Harris: During the regime of Harry Truman, yes.

Morris: Do you receive a commission which is signed by the president?

Harris: Yes, by Harry Truman.

Morris: But that is a ceremonial thing that doesn't necessarily involve the president actually talking to the candidate.

Harris: Well, the president would have to sign.

Morris: But he doesn't necessarily himself interview the candidates?

Harris: No, he has a secretary do that.

Morris: Did somebody from Washington come out and talk to you from the president's office?

Harris: I don't remember, really.

Morris: I am being inquisitive, but primarily because appointments to any significant position, like the district court, are one of the areas which students and scholars are most interested in, because the resulting impact of the person that is appointed does affect the later events under their wing, as it were.

Induction: Appellate Review and Instructions to Jurors

Morris: Did you ask to have the actual installation ceremony on the fifth anniversary of your taking over the municipal court seat? It was five years to the day that you were inducted into the federal district court. You went on the municipal court July 17, 1941, and then you were inducted into the federal court July 17, 1946.

Harris: What is the significance?

Morris: Was it just a coincidence?

Harris: [It was a] coincidence.

Morris: Yes. That's delightful. Do you recall the ceremony at all of your being sworn in to district court?

Harris: My being sworn into office? Yes.

Morris: Could you tell me a little bit about it?

Harris: Well, it was a distinguished group of lawyers and people of general interest--usual run-of-the-mill type of guests that you'd find in any ceremony of like import. Rudolf Friml happened to be there.

Morris: Was he?

Harris: Yes. He wanted to see what they were going to do to me.

Morris: [laughs] I understand that.

Harris: He was quite a comedian.

Morris: Did he have a suitable song for the occasion, or would that be appropriate?

Harris: No, I told him I was being inducted into office. Judge St. Sure was quite elated that he was present. Judge St. Sure conducted the ceremonies of my installation.

Morris: And St. Sure was fond of the theater too?

Harris: He was very fair. A very strict judge, but very fair.

Morris: And Phil Gibson came over and swore you in?

Harris: And administered the oath. Would you mind adjourning for the day?

Morris: No, I think that's a good place to stop for today.

Harris: I'm tired. What shall we cover in the future?

Morris: Let's see. A couple of things that I'd like to ask you about--Judge Goodman made the ceremonial speech at your induction. He raised a couple of points that I'd like to ask you about.

##

Morris: He spoke of the vigilance of one's appellate brothers in setting errors right.

Harris: Yes.

Morris: I wondered if you'd care to comment on that.

Harris: Well, it was not intended by the late Judge Goodman to express more then a generalization of the attitude of the trial judge and his brother. It's certainly not an activity that would merit anything but a fair attitude, not a hasty one. Your question implies perhaps some haste and some possible personal feeling.

Morris: Personal feeling?

Harris: Yes. It does not.

Morris: No, I hadn't really thought of it that way. A similar concern that a case might be reviewed turns up occasionally in some of the instructions for the juries.*

Harris: Oh, yes.

Morris: I wondered if the fact that any case may be appealed is one of the things that a judge is aware of during the process of trial and--

---

*See binder "Instructions to Juries" in Judge Harris's papers.

Harris: Oh, certainly. We were bringing the attention of the lawyers to the fact that instructions may be imperfect. Instructions are sometimes difficult.

Morris: They seem to follow certain patterns.

Harris: That's right. That's correct.

Morris: There are sort of some standard instructions that are used over and over again, and then additional ones that are specific to the conditions of the case being heard.

Harris: That's right.

Morris: Are there ever times when a judge would wish to be reversed on appeal?

Harris: I noted that in your notes. I don't think so; I don't think any man enjoys being reversed. Moral reasons. I don't know. I never had the question put to me in that fashion. I would say as a generalization, there's no desire inherent in a judge's attitude--I withdraw that. I would say as a generalization that it rarely occurs.

Morris: I was asking this because I've been reading some more in Judge Wyzanski's book. At one point, he's making a speech to a group of law students--

Harris: He's an appellate judge, essentially. He's a lawyer essentially.

Morris: Right. You feel he's still a lawyer, rather than a judge.

Harris: Yes.

Morris: His comments seemed to be reflecting the thought that sometimes a judge might feel either that the existing laws did not give him sufficient support for a decision, or that there were sufficient questions about laws which might somehow be contradictory; that there were times when a judge might wish there to be a change in a law.

Harris: Judge Wyzanski probably is aware of the sensitivity of a trial judge in being reversed and probably is big enough and is a philosopher enough to be aware of the niceties of our procedure and the depth of integrity of the run-of-the-mill trial judge. Generally, of a very deep, philosophical turn of mind. It's possible that a man of that temperament might get some solace out of a reversal, when he feels that there's a wrong being done and that it can be recaptured. It might be some individual solace; I can see that.

Morris: Would this kind of reflect what I gather is a continuing discussion between judges who believe in a close interpretation of statutes and the constitution and those who favor a more broad interpretation? This is what's written about a lot; do judges themselves talk about this kind of a point?

Harris: Well, Judge Wyzanski is essentially a philosopher. Strong mind.

Morris: Interested in pushing out the various concepts and expanding judicial and legal framework? [pause]

Law Clerk Richard Goldsmith

Morris: Maybe we could spend just a few minutes and you could tell me what happens when you go on the bench, how you go about organizing your own court.

Harris: I think the organization remains largely to the clerical force, and the chief of the clerical division. Other than a selection from time to time, perhaps, the courts as such, the individual courts, are not devoting their time to the minute details of the clerical, but as often as necessary in a trial court will find ways of capturing some of the good clerks and try to have them maintain a degree of integrity and trustworthiness as a badge of their tribe.

Morris: I talked a little bit with Richard Goldsmith, because I was struck with the fact that he served as your clerk for close to twenty years.* That's kind of unusual, in't it?

Harris: It's very unusual. Personal wishes and personal desires sometimes have a part in the very fast relationship that develops.

Morris: How did you come to find Mr. Goldsmith?

Harris: Goldsmith was a clerk for Judge Michael Roche. Michael called me when I first came on the bench and asked me if I needed a law clerk. He'd heard that I was working nights and didn't have enough help.

Morris: When you started out you had no clerk at all?

---

*Mr. Goldsmith provided helpful background on Judge Harris's early days on the Northern District Court in an interview recorded June 11, 1980, and deposited in The Bancroft Library with the tapes of Judge Harris's interviews.

Harris: Yes. So he had two clerks available. I selected Goldsmith, and it was a very happy selection. He's a very devoted man to the law and devoted to the courts. He's now a commissioner--no, he's more than a commissioner.

Morris: Magistrate.

Harris: He's a magistrate. And he's a good one. He'd make a good candidate for the district court, as well as higher courts. He's essentially a good lawyer.

Fellow District Judges##

Morris: I'd like to ask about the district court judges that you were serving with.

Harris: Oh, yes. Judge Michael J. Roche [spells name] came out of the loins of the labor unions. He had an illustrious career as a trial judge.

Morris: In legal--

Harris: In federal court.

Morris: In matters affecting labor unions, he would represent labor?

Harris: He would try cases involving labor unions as well as labor litigants.

Morris: But when he was an attorney himself, did he represent union issues, union matters?

Harris: Well, he started his career on the municipal bench, so he didn't have much time as a trial lawyer, practicing per se. He came to the attention of laboring people as a result of his loyalty and fealty.

Morris: His father and brothers were active in the labor movement?

Harris: I imagine so. He was a fair man and loved his fellow man with a great loyalty and fealty. When I first came to the municipal bench, he was the chief. He was of inestimable value to me and very generous.

Morris: In helping you get familiar with the ways of the court?

Harris: To acclimate myself and to get the feel of the court. Although I had an extensive career as a trial lawyer, nevertheless, it was Mike Roche's firm belief that it took five years to indoctrinate a man, however much ability he may have had, in the ways of the municipal trial judge.

Judge Harris' induction to the District Court, July 17, 1946. From left: Thomas Anselm Duffy, the Judge's Crier and father-in-law; Judge Harris; Jerome Duffy; Rudolf Friml.

Members of the Northern District of California Court, circa 1955. From left, rear: Oliver Carter, Edward P. Murphy, Oliver Hamlin, Sherrill Halbert; front: Chief Judge Louis Goodman, Michael Roche, Judge Harris.

Harris: Louis Goodman was a man apart--a dedicated lawyer, judge, and man of family.

Morris: Man of family. He had a large family in the--?

Harris: He had a boy and a girl. Louis Goodman was a charitable man, devoted much of his time to charities.

Morris: Did he? When you say he was very helpful to the charitable organizations, what kinds of groups would he lend a hand to?

Harris: Oh, general charity.

Morris: Churches, or symphony and cultural things?

Harris: A mixed bag.

Morris: If somebody needed a hand and a good person for chairman, he'd serve as chairman of a committee?

Harris: I couldn't answer that, really.

Morris: Was it from Judge Goodman that you got interested in lending a hand to charitable causes yourself?

Harris: Charity?

Morris: Yes.

Harris: No, my elemental concept of charity was reaffirmed by him. I never had the money to carry out charitable work as well as he; but I was motivated a great deal by his efforts.

Morris: I was thinking of your efforts on behalf of Mary's Help Hospital. Prying money out of other people across the community, I think, may be certainly as great a service as making a large donation oneself.

Harris: There are so many factors that lend themselves to charity, and the field of charity, that it would be impossible for me to give a comprehensive answer. I think that lawyers, judges, and so forth respond pretty much within their financial abilities and are awakened to the causes of humanity perhaps a little more readily than the average citizen.

Morris: Why is that, do you suppose?

Harris: They see the evidences more readily because of their training and natural appetite to help.

Morris: Do you suppose they come up against situations where people are in real distress more than the normal, run-of-the-mill person?

Harris: A lawyer is generally the one you run to for immediate aid, perhaps before pursuing the matter before the agency involved.

Morris: My records say that Mike Roche went on the district court in 1935.

Harris: That's about right.

Morris: So he would have helped instruct you in the ways of the district court?

Harris: Yes.

Morris: He was already on the district court when you went on the muni bench.

Harris: That's right.

Morris: Was Louis Goodman on the municipal bench with you before he went to the district court?

Harris: No, he went right to the superior court. He had an extensive practice in personal injury and estates.

Morris: That's an interesting combination. It's at the superior court level that you deal mostly with probate, am I right?

Harris: Probate, yes.

Morris: Let's see. Judge St. Sure was the chief judge.

Harris: Judge St. Sure was away from the court for over a year when I first was fortunate enough to sit on the district court. Mike Roche was in effect acting chief judge.

Morris: A year's illness is kind of major interruption in one's life. When he recovered from the illness, did he recover fully so that he could carry a full load, Judge St. Sure?

Harris: No, his health was badly impaired. He gave himself so fully to the court, I'm quite sure that it had an impact on his future welfare. In those days, there was just Louis Goodman and the staff, Michael Roche, Martin Welsh [spells name]--he mainly sat in Sacramento.

Morris: And at that point Sacramento was part of the Northern District of California.

Harris: That's right. That's correct.

Morris: So you didn't really have much contact with him, or did you?

Harris: Yes, we went up to Sacramento constantly and tried their cases. Louis Goodman and I would go up and clean up, maybe, a number of cases off the calendar--keep the calendar moving.

Morris: How often would that be? Once a month or twice a year--?

Harris: Oh, no. That also is related to so many factors: availability of temporary help--

Morris: Tell me about Mr. Welsh. Was he from the Sacramento area, Martin Welsh?

Harris: Yes, originally. I think he sat in the superior court. He also was a very able man in his own right.

Morris: Would he occasionally come sit in San Francisco when you needed help with your cases?

Harris: Yes, he'd help us out. The complexion of the court has changed so rapidly in the years that the early days are not earmarked any longer. I think there was a great deal of individual human interest in one another.

Morris: When there are just four of you, you get to know each other better?

Harris: Yes.

Morris: And work more closely together?

Harris: Right.

Growth of the Court

Morris: Could you give any kind of a rough reconstruction of whether the cases that came to this court in Sacramento were appreciably different from the kinds of ones that would come to the court in San Francisco?

Harris: No.

Morris: So there was a regular court in Sacramento that met regularly. When you were first on the bench, did you ever go to Oakland or San Jose to hear cases?

Harris: Oakland, yes, quite often. We had a court in Oakland. San Jose, no. We serviced San Jose for a while.

Morris: Is that because the lawyers didn't want to come all the way to San Francisco to present a case?

Harris: Matters of convenience, yes.

Morris: And the district goes all the way to the Oregon border, am I right?

Harris: Right.

Morris: Did anybody ever up in Arcata or Redding have a concern about why the court didn't ever sit up there?

Harris: Yes, I think so. Redding was a very active place, legally.

Morris: That's where all the water stuff was going on.

Harris: Yes. The Carters came from Redding, Oliver and his father [Jesse]. They became quite renowned in trial work, representing people injured in railroad accidents, and other litigation. Oliver was a fond friend of mine, both on and off the bench.

Morris: You'd been friends before you ended up in the court together.

Harris: Yes.

Morris: I've been trying to work out a nice, neat chart to help me understand how the court worked. When a new person is appointed, say when Judge St. Sure retired in 1949, does somebody take his seat, in effect: Is it his seat that is--?

Harris: No, it's a gradual transition.

Morris: But it looks as if Mr. Erskine was appointed--

Harris: Herbert Erskine. Very able trial lawyer.

Morris: But he was appointed to take the place of Judge St. Sure?

Harris: That's right. I think Herbert Erskine, by reason of his extensive trail practice, was probably one of the best trial judges that we had in the United States. He could handle any type of litigation and was a joy to watch in court. However, I think, in turn also, he hastened his demise by reason of his tremendous activities. He refused to restrain himself and passed away very suddenly.

Morris: Yes, he was only on the court for about two years.

Harris: Two or three years.

Morris: How old a man was he when he came on the bench?

Harris: He was in his sixties.

Morris: When you say he hastened his demise by taking on too many things, in the district court he'd take on more cases than--?

Harris: He took on a terrible load. But we were so busy, we welcomed his efforts. He was a great judge.

Morris: Are Californians more contentious than other parts of the world? Why was the caseload so high in the Northern District?

Harris: No, I don't think so. I don't think we're more contentious here. I don't think it's a condition, per se, you can say one thing or another.

Morris: Alternatively, some of the statistics I've read suggest that the Northern District had more cases and fewer judges than other districts, like Los Angeles.

Harris: That was a result of years of inactivity in the area of getting judges. Some judges are very highly specialized in watching those areas, so that they can translate the hope and prayer that they would get some help and tended their own back yard.

Morris: Who on our court here?

Harris: Louis Goodman was very good.

Morris: Administratively?

Harris: He very often put it on his own shoulders. Louis Goodman gave unstintedly of himself. He was a man of great capacity, great warmth and devotion.

Morris: Was he chief judge in 1950, when we have Oliver Carter and Judge Murphy coming on?

Harris: Yes.

Morris: Was that a long procedure, to get two more seats approved?

Harris: It takes some time. Approval, swearing. Several years involved.

Morris: Let's see if I have it right. In order to get an additional judgeship, you have to develop statistical--

Harris: Factual and statistical evidence. Comparative analysis, all the other factors. It's not an easy task.

Morris: And that goes to the federal office of the courts and the--?

Harris: Right, the administrative office. That's right.

Morris: But then the actual permission to add a new judge is matter of legislation, if I'm right; and that involves the legislators from California, Senators and congressmen?

Harris: Yes.

Morris: Why were they more supportive of additional judgeships for Los Angeles than for the Northern District court?

Harris: Well, there's larger areas.

Morris: When the two additional seats were authorized, about 1949 or '50, did you and the other judges already on the Northern District court bench have some thoughts as to who would be likely candidates?

Harris: That's not done on a wholesale basis. It's done on an individual application, rather than a general one. Generally the judges have a voice, however limited, in selection. They make their wishes known.

Morris: In terms of who would be suitable, or who might be less suitable.

Harris: Yes.

Morris: Bill Knowland was still Senator at that point, I think, in 1950. Would he have come by and talked to the judges?

Harris: Yes.

Morris: Richard Nixon would have been the other Senator from California about 1950. Was he also interested in the views of judges, as to who their fellows would be?

Harris: I couldn't say that categorically. I can't recall Richard Nixon ever appearing before the judges, as a body or individually.

Morris: I think that's very helpful. As we go along, I'll ask you about some of the other distinguished gentlemen who joined you on the bench.

VII MATTERS BEFORE THE NORTHERN DISTRICT COURT OF CALIFORNIA

Morris: I've been working with a list of cases that you drew up about your district court work, such as the Harry Bridges case, American Can, and Seigel v. Chicken Delight.* I thought I would sort of organize those chronologically.

Harris: Why not resort to the record for those cases, rather than to require me to review them?

Morris: Well, I think that--

Harris: What is there in particular that--?

Morris: There are some questions about the record, which is what I'd like to talk to you about. Do you want copies of the whole federal supplement statements or a summary of it?

Harris: Summary.

Morris: I have made that kind of summary myself just to understand the course of events. I can send you copies of that and of the major points.

Harris: That would be very helpful.

---

*Judge Harris kept an alphabetized looseleaf binder of summaries of decisions in cases he had heard, prepared by his secretary, Pat Driscoll. In the front is located a list of cases the judge drew up from the binder for an article he contemplated writing, presumably on cases he found memorable. See illustration next page.

Memorandum re Article on Assuming role of senior Judge!

Some Articles.

March 1962 THE BRIEF CASE, p 6.

June 4, 1968 "It's a Lonely Business"
(Tom Hall)

Generally re:
Geographical Data file

Harris v Nelson 394 US 286
Scope of discovery proceedings in Habeas Corpus.

Cases: Jordan v Fitzharris (Soledad) 257 F Supp 674 Class Action

302 F Supp 1071 ; Jos. Cerrito v Time, Inc Right to Privacy.

Bailey v United States.
: Gideon delight. 271 F Supp 727 Escobedo v Illinois.
: (Largest Class Action in US. Maine)

Dalton Litigation (U.S. v Dalton)
: Litigation.

: Fox West Coast
Contract Carrier Case 194 F Supp 507
v Gadsden (328 F (2d) 790
: U.S. v F.M.C. #18753

276 F Supp 811 : U.S. v American Co ; longest anti trust case ever heard in the Southern

Longest Case
Logic forgive Me

Yuba Consolidated Industries.
274 F Supp 51

Morris: I'd like your guidance on whether the Harry Bridges case, which you talk about--the naturalization case--it seems to me that that becomes even more interesting when it's talked about chronologically in relation to some of the other cases that the ILWU was involved in.

Harris: We might close today on a note of levity. One of my granddaughters was living with me at the time, and they were expecting me home for dinner, and I was late. She reprimanded me; she said: "What are you doing, trying that old case?"

I said, "Which old case?" She said, "That old Chicken Delight case." I didn't know she was actually even aware of the Chicken Delight case! That's somewhat of a reminiscent note of my complete attitude about serving in the case, because I did occupy a great deal of time in Chicken Delight.

Morris: I can believe it.

Harris: A tremendous amount of time. It was one of the most occupying cases I ever tried in my life. Even the children noticed it.

Morris: That you weren't around very much. How did you feel about eating chicken while that case was going on?

Harris: I couldn't eat chicken. [Morris laughs]

Thiel v. Southern Pacific##

[Interview 7: June 20, 1980]

Morris: One of the earliest cases you heard was Thiel v. Southern Pacific.* An article in the Brief Case indicates that it was an important case concerning jury selection.**

Harris: I have received the paper you generously sent to me. Can you hear me all right?

Morris: Yes, fine.

Harris: Gilbert Thiel v. Southern Pacific and the principle that was announced safeguarding the statements made by employees as privileged. That's a generalization that was applied under Thiel v. Southern

---

*67 F. Supp. 934 (1946)
**See Appendix

Harris: Pacific. I would see no useful purpose in pursuing it. There may be four or five hundred cases that involve the principle; I don't think it's any more important than just the statement in the record that we kept cognizance of it.

Morris: "Safeguarding the statements of employees."

Harris: Yes.

Morris: The employees of the Southern Pacific Company in this case?

Harris: Yes, as delineated in the general statement, the general statement in a memorandum. In other words, I didn't regard it of sufficient importance [at the time for us] to delay going into other matters apparently of more moment, unless you saw some reason.

Morris: In that particular case?

Harris: Yes.

Morris: Could you explain the principle of safeguarding statements of employees a little bit, just for my understanding?

Harris: Simply stated in the memorandum--[pause]--statements taken by railroads from the employees concerning accident for purposes of defending prospective or pending litigation were privileged within the meaning of federal rules dealing with discovery and production of documents and things for inspection. It's a generalization that the rules of safeguarding and secrecy and so forth would be embraced by the railroad companies--the federal rules for the discovery and production of documents and things for inspection. A motion of plaintiff in action against railroad company for inspection of such statements was therefore denied. In other words, Thiel's attorney was denied the right of inspection of the documents; and they were classified under the generalization that they were to be withheld from the view of the plaintiff in advance. I think that's clear, don't you?

Morris: It's an interesting point, however, from--

Harris: I brought the volume; I didn't see much in the volume relating to--

Morris: Right. It's cited in the Federal Rules of Civil Procedure [34.28].

Harris: There was one volume on it. I devoted probably two or three days, maybe longer, to a classification of the point of law. I think I was affirmed on appeal. Unless you feel that I should pursue it more diligently, I'd like to go to maybe Bridges.

Morris: There are a couple of other questions about the Thiel case that were of interest. One is there was a question that isn't mentioned in either of these summaries, but there was a matter regarding jury selection, which apparently did have some consequences.

Harris: Involving what?

Morris: There was a question about the jury in the Thiel case. Mr. Thiel's attorneys questioned the representativeness of the jury. They were concerned that there were not enough working men on the jury, since Mr. Thiel apparently was of the--

Harris: I don't know what--

Morris: Mr. Thiel was apparently a relatively low salary worker, and his attorneys felt that the jury should have more working men on it.

Harris: I remember the attorney's name was--I remember when he started trying railroad cases, he was a very young man, very diligent. Got in everybody's hair, but he got results.

Morris: He got results.

Harris: Yes, he got results. On jury selection, he's entitled to a cross-section of the community. I think he had that.

Morris: The jury had a cross-section, but then there was a lengthy discussion of the process by which juries were at that time being selected for the Northern District court. Judge Goodman and Judge Roche had had a special hearing on--

Harris: I had a copy of that.

Morris: I wondered if you might have been aware of there being some question about jury selection.

Harris: Collaterally. It wasn't a prime question.

Morris: In the Thiel case?

Harris: No. The jury selection, as I recall it now--I may be wrong--but the jury selection was devoted mainly to that area of activity. They called for a cross-section of the community. I believe that they did have a cross-section of the community. That's the way I left it.

Morris: There was also apparently extensive questioning of the jury commissioner and the clerk of the court during the trial. I gathered that rules had grown up by which some fairly arbitrary decisions were made to not put names on the list of people who--

Harris: Had some identification?

Morris: --were day laborers and things of that sort. The concern that was expressed was--

Harris: I've got that man's name now. Philander Beadle.

Morris: Isn't that a lovely name?

Harris: Philander Beadle. How in the world can you remember a name like that?

Morris: Well, it's an unusual one. He was the attorney for Mr. Thiel?

Harris: He carried it to the Supreme Court.

Morris: And he made a specialty of trying--?

Harris: Oh, yes, that was his life.

Morris: --cases against the Southern Pacific?

Harris: That was his whole life.

Morris: That would explain a question I had: there seemed to be a larger than normal expectation of cases against Southern Pacific, not only in your court, but in others.

Harris: It was his life's work. I think he passed away. I had a very decent friendship with him. He used to come and see me in chambers. He was serious to a fault, if that can be possible. I grew to like him, although he was quite extensive at times. And I liked to pronounce his name. Philander Beadle. He reminded me of a Dickens character.

Morris: Yes, very much.

Harris: So that's not a very joyous result after reading the volumes, that I thought he represented a Dickens character. But, you know, those are the lovely things about practicing law: the memories and so forth. He was not working for money, in toto. He was a dedicated man as far as the railroads were concerned. His dedication was unparalleled. His examination of the jury commission was a long-winded, detailed account. He would pursue any angle in order to get the matters before the court.

Morris: Your reference to Dickens characters makes me remember that many of Dickens' characters were dedicated to improving social conditions. I wonder if Mr. Beadle was concerned in general about the rights of working men?

Harris: Oh, yes, he carried a torch. And he was quite effective with a jury, very effective. I haven't heard from him in years. I rather imagine he's passed away. [tape interruption for coffee]

Morris: Did you feel that there was an inordinate number of cases against the Southern Pacific?

Harris: Inordinate?

Morris: Did the Southern Pacific appear in court more often, say, than other corporations because of claims brought against them?

Harris: That's my recollection. How accurate that is, I must tell you again that many cases have gone under the bridge. It's surprising that we can remember as much as we do.

Morris: There was a Mr. A.B. Dunne, who was the attorney for Southern Pacific.

Harris: Arthur B. Dunne. His father, Peter Dunne [spells name], was a highly respected trial lawyer of industrial cases as well as personal. He was sought after by the big interests in obtaining his representation, as he had envious result.

Morris: He brought his son Arthur into his practice, then?

Harris: Whenever a case ended, he generally had a very strong conviction about it. He gave his best talents; I respected him immensely. Peter Dunne will go down in the annals, as well as his son, Arthur Dunne. Arthur Dunne, likewise, was defender of the large interests, and the railroad companies, and carried the torch for them, in fact, for a long time, as well as other causes of some renown.

Morris: Other than industrial causes?

Harris: Yes.

Morris: In what--?

Thoughts on Courtroom Proceedings

Harris: He figured largely in the Dollar case.* Do you recall that?

---

*U.S. v. Dollar [97 F. Supp. 50, 1951].

Morris: Yes. He represented the American President Line interests; and in one of the actions, at the same time that Arthur Dunne was representing what appeared to be the officers of American President Line, Mr. Dunne was also a respondent in the same case. That puzzled me a little bit.

Harris: The last time I saw him was at a meeting of the Historical Society, and he didn't look too well. He looked like he'd been quite ill to me. I really had an opportunity to pay my respects and say hello—to Arthur.

Morris: Does it create problems in handling a trial when an attorney is both representing some parties to the case and also a respondent himself?

Harris: I don't follow that.

Morris: It's a point I was unclear about. In reading about the Dollar case, Arthur Dunne was representing the officials of the American President Lines. He was also listed as a respondent himself.

Harris: I see no conflict. You thought there might be a conflict?

Morris: I was wondering if there would be; how the same person could be mentioned in a case and also be defending a case, as it were.

Harris: Was the point raised in the Dollar case?

Morris: No, it wasn't raised. But it's the kind of question that is unclear to someone who's not in the legal profession.

Harris: There may have been areas of conflict; I don't know at the present time.

But in any case, if there were any areas of conflict, either Dunne would find them or Philander would find them. Both were ardent, devoted, students.

Morris: Students of the law?

Harris: Yes.

Morris: It sounds as if Arthur and Philander would quite often be in your court opposing each other?

Harris: Opposing one another. They were never arm in arm.

Morris: Right. But they frequently did battle together against each other.

Harris: That's right.

Morris: So that the relationship kind of continues over from one case to another.

Harris: From one case to another, and one case to a hundred.

Morris: Did you reach a point where you could have a pretty good idea of what Mr. Dunne was going to say and what Mr. Beadle--?

Harris: Yes, pretty much. You could almost summarize it.

Dunne presented a case as gracefully and as honorable as any man I ever saw in a courthouse. He's a highly intelligent individual, and he had the respect of all courts.

Morris: How did his presentation compare with Mr. Beadle's?

Harris: Two different worlds. It would be hard to make a comparison.

Morris: Mr. Beadle, then, would never be found representing a corporate interest?

Harris: No, no, I wouldn't say that. If he had an opportunity to represent anyone.

Morris: But if he developed a reputation as being good in pleading the case of one citizen claiming damages against a corporation for one thing or another--

Harris: A corporation wouldn't employ him. They would have no reason to employ him. They had good representation in their own areas; they didn't need Philander, nor did Philander need them. Talking about two different worlds.

Morris: Which meet in your courtroom.

Harris: Yes.

Morris: Two different worlds, but they have rather important kinds of interactions I would think.

Harris: That's right.

Morris: Over the years, did you see any kind of change, say, in the Southern Pacific, in the way they would respond to cases?

Harris: [pause] I think there was a development on both sides of presenting cases which ordinarily occupied our attention. I think the development was for good, and that, under the circumstances, the judges had no problems.

Morris: Any sense that the kind of case, perhaps, would change, or that Southern Pacific would be more inclined to listen to conversation in chambers so that a case didn't actually go to trial? Or a change in the kinds of things that people were--?

Harris: You're asking me a question that's very difficult for me to answer. I don't know what the motivations were, what the trial strategy might be, what the tactics that might be employed. Each case requires a different treatment and approach from the astute trial lawyer's viewpoint. That's about the best I can say on that.

Morris: From your point of view on the bench, would your concern be to try to resolve the matters at issue in conferences before any legal action took place?

Harris: To anticipate the legal issues?

Morris: I'm curious about the area of pretrial conferences and discussions, whether--

Harris: That's probably--and I think I mentioned it before--the most useful trial procedure that we have in defining the ultimate issues of a trial. Is this being recorded?

Morris: Yes, it's coming through nicely.

Harris: At times my voice drops off, so will you remind me?

Morris: I will. In cases against the industrial corporations, when one citizen is suing for damages or injury of various kinds, are the corporations interested in arriving at a settlement, so that they don't have to go to the time and expense of the trial?

Harris: That's always an area of activity that's very well pursued by both sides, even in a case where there's obvious liability, because they feel that settlement sometimes is far better than extensive litigation. And with the advanced costs as we have them today, it seems to me that it's most desirable.

Juries and Jurisdiction

Morris: In the Thiel case, too, there was a question as to whether the case would go to superior court or the district court.

Harris: I can't recall the issue on that.

Morris: Southern Pacific apparently preferred the district court, and Mr. Beadle had originally indicated he wanted it tried in superior court.

Harris: Well, he felt he'd get better consideration in the superior court.

Morris: How is the decision made as to whether a particular case will go to one court or another?

Harris: A motion is made based upon the records. In the light of the motion and the nature of the cause, the court makes a decision.

Morris: So it's within your purview as a district court judge to refer a case to superior court or to hear it yourself?

Harris: Each case would have to be given separate consideration. There's no generalization that I could possibly give you.

Morris: But you can make a decision when a specific case comes before you--

Harris: Certainly.

Morris: --that you would want to keep it in your court, or you feel it would be better handled in superior court, for instance?

Harris: There are questions integrated of jurisdiction, there are questions integrated of a speedy trial. The calendars might be blocked off in certain areas of activity. The questions are so involved internally sometimes, and externally, as to foreclose any given result.

Morris: If you issue an opinion that the case should be heard in superior court, does the superior court have--can they either accept or refuse that case?

Harris: Again, without factual background, I'm guessing, and I don't think it would help the record.

Morris: In the Thiel case: if it was originally a case of a citizen in California against what sounds like an accident on a train in California--

Harris: That apparently was the issue.

Morris: What would be the basis for having it heard in the federal courts?

Harris: The question of a jury. The jury question, according to Beadle, was an important one. In relieving the caseload, we were inclined to try the case to the court rather than to a jury, in order to decrease the caseload, which was, as you point out, very large. So the considerations that seemed to be intertwined in the questions are not all easy to answer. I guess that's why you asked them. [Morris laughs]

Morris: Yes. That's a good basis to go forward on. Was the matter of jury selection and compositon of a jury one that came up frequently in cases before your court?

Harris: Yes. Some trial lawyers would rather try it to the court, if it involved legal questions of any moment.

Morris: They'd prefer to have it heard just by the judge and not by a jury.

Harris: Yes, if there were legal questions involved.

Morris: How about the matter of when the jury was the proper means to use. Did many people object to serving on a jury?

Harris: No. People generally enjoy serving on a jury, if the lawyers are competent.

Morris: What about the question of economic hardship, which seems to come up again and again: "If I'm going to be on a jury for a week or two weeks, I'm going to lose--"

Harris: Those questions generally remain with the trial judge. He decides them as he sees them. No given rule can be announced.

Morris: Are there changes, periodically, in the court's procedures for selections of jurors, and for preparing the master panel for jurors? Has this changed over the years?

Harris: Yes, that's been changed several times. The fundamental rights, however, are preserved. But the technique of trying a case with a jury and the selection thereof still remains a pretty involved situation. In advance of trial, the able lawyer, or the vigorous lawyer generally has a classified list of the jurors; they have background, their identity, sufficient unto the day.

Morris: Of the whole panel that's currently in use.

Harris: That's right.

Morris: Is this classified list available to attorneys for both sides?

Harris: Certainly.

Morris: So they match that against the person's manner and appearance when they're being questioned.

Harris: Surely. A judge worthy of the name-- I never found one yet who foreclosed the fair, honest consideration of a jury's qualification. We allow a very wide examination.

Morris: This is probably also a very technical point, but one that was interesting: in the Thiel case, there was reference to the grand jury persons and trial jury people being selected from the same master panel for the period of time. I wondered if the two kinds of juries were sufficiently similar so that you could use the same panel of people to pick the juries from?

Harris: That question, when it would arise--there's no reason you can't pick the two from the same panel.

Morris: The grand jury if I'm not mistaken--

Harris: The grand jury would not be involved.

How are we progressing? What is your estimate of our future?

Morris: I think we're making great progress. Part of it depends upon your wishes. We've got several major cases to talk about. Do you want to stop here for today?

Harris: Yes, I'd like to stop.

Grand Jury Investigation, 1951-1954

Morris: I understand that the district court historical society has a scrapbook about a grand jury investigation in 1951 and 1952 in which your name is mentioned.* I wanted to read some of the information on it before I talk to you about it.

Harris: I'm sure he has it. I remember some of the events; they were very, very bitter.

*See next page for a press summary of the 1951 investigation of irregularities by internal revenue officials. In January and February of 1952, the investigation heated up further with charges by the association of former grand jury members and Congressman Pat Hillings (R, California) that district court judges Goodman, Murphy, Carter, and Harris had acted improperly [S.F. Examiner, January 22, and S.F. Call-Bulletin, February 1]. On February 23, The Chronicle reported that Hillings said the four judges would be questioned by the House Judiciary Committee, and the Call-Bulletin announced a serious effort by Democrats to cut off congressional support for the investigation, and the matter appears to have dropped there.

San Francisco Chronicle July 6, 1954

Brief History of S. F. Tax Scand

"The San Francisco Story," of which the Keating Committee report released today constitutes a closing chapter, dates back to 1950.

The first chapter included an observation by the California Crime Commission that a strange relationship existed between "the criminal element and certain officials in the Bureau of Internal Revenue."

It charged laxness in prosecution of known racketeers for income tax evasion, and focused attention on persons in tax troubles buying stock in a worthless copper mine (Mountain City Consolidated Copper Co.) from tax agents, to obtain immunity from prosecution.

Kefauver Committee

Then the Kefauver committee of the U. S. Senate came here for dramatic televised hearings which indicated the crime commission had barely scratched the surface.

"Wild Wednesday" — May 16, 1951—became a date circled in red on the calendar of subsequent events.

That was the day Charles O'Gara, then an assistant U. S. attorney, went before a federal grand jury here with a "bill of particulars" listing purported irregularities within the office of James G. Smyth, then collector of internal revenue.

Slapped Down

O'Gara was slapped down by Federal Judge Louis E. Goodman, who said he and the jury were acting without authorization, and by Chauncey Tramutolo, then U. S. attorney here. Tramutolo benched him, later decommending his dismissal, and O'Gara eventually resigned.

The "bill ot particulars" originated with Thomas A. Doolan, a deputy collector under Smyth, and his testimony, with that of O'Gara, bulked large in the numerous and protracted investigations which followed.

Those investigations are reviewed and evaluated in today's report by the Keating Committee.

Nine Suspensions

Most spectacular single development in the history of the so-called tax scandal here, part of a picture that made headline news on a national scale for months in 1951-52, was the suspension of Smyth and eight subordinates in the San Francisco office of the collector Sept. 27, 1951.

And of the numerous indictments and prosecutions which became byproducts of the several investigations, the most prominent were those involving Smyth and two of his former top officials in the Bureau of Internal Revenue.

Smyth personally, though fired by President Truman, emerged cleared of all criminal charges against him.

On June 9, 1952, a jury acquitted him of conspiring with Paul V. Doyle, his former chief office deputy, to backdate the tax returns of Smyth and his wife, Madlyn, to avoid payment of delinquency penalties and interest.

"This is the vindication I was certain would come," Smyth said at the time.

And on April 5, 1954, Federal Judge George B. Harris dismissed the last remaining count against Smyth, a conspiracy charge related to the original indictment.

Judge Harris also dismissed similar conspiracy charges against Doyle and John J. Boland, former chief field deputy under Smyth.

This leaves only one "tax scandal" case.

On June 18, the U. S. Circuit Court of Appeals upheld the conviction of Doyle in a separate case, but reversed the conviction of Lloyd J. Cosgrove, Mission District lawyer.

Doyle and Cosgrove had been convicted of trying to defraud the Government of late-payment tax penalties by back-dating estate tax returns.

The appeals court held the Government had failed to prove Cosgrove knew anything about the backdating.

And James E. (Ned) Burns, attorney for Doyle, has announced he will carry his client's fight to the U. S. Supreme Court.

Complete reorganization of tax offices here and throughout the country has been one important result of the investigations.

Morris: I would imagine so.

Harris: There was a great deal of acrimony built itself up in the internal affairs of the United States attorney's office. I remember one Charles O'Gara, who was an assistant in the United States attorney's office. Can you hear me?

Morris: Yes.

Harris: He protested bitterly about the conduct of certain officers of the court. He advanced the thought that they should be prosecuted. It all became a source of great discomfort to many people.

Morris: What was the issue particularly that bothered Mr. O'Gara?

Harris: The issues were concerning the failure to indict individuals whose names I haven't in mind.

Morris: Right. That's why I need to look at the press clippings.

Harris: There was some mention of possible suppression. Personalities became very vivid and very bitter. I can't recall the names, nor could I recall specifically the events, but I'm sure that the transcripts are very complete, and I'm quite sure that Judge Peckham has them.

Morris: Good. Why don't I get those, and then I can fill you in on some of the names of the people that were involved.

Harris: Joe Karesh is one name. Joe Karesh earned a judgeship out of the efforts that he made. He was rewarded by a superior court judgeship.

Morris: Because of this particular investigation?

Harris: You can't tie it in that fashion, with the directness of fulfillment of that kind. You infer, rather than anything else. The fair inference to be drawn was that he was rewarded for his efforts by a judgeship. Maybe that sounds rather strident, but he received a--rather than use the terminology, "he was rewarded"--he received a superior court appointment. That's better.

I think a couple of indictments came down; they were dismissed out of hand. It was a hallmark series of cases, wherein the judicial process became entirely out of hand. It was a classic illustration of the processes of the law becoming unbridled and completely out of hand.

Morris: I'm not sure I understand that. In the sense that the judge was not able to control the proceedings?

Harris: No, you couldn't lay it at the door of any judge, because so many different judges have so much to do with the grand jury. Usually, in contemplation of orderly procedure, one man is delegated to handle grand jury matters. When they become too heavy, they get two men to handle grand jury matters. Grand jury is an important function, as you know, in our judicial process. It was a frightening situation to watch develop, because of the fact that there's nothing more deadly in the judicial field than a grand jury out of command.

Morris: There was a sense that the grand jury was exceeding its responsibility?

Harris: Yes. I think you almost have to have the transcript to deal with this problem. It's not something you can pull out of the--

Morris: Some of the articles that I've read indicate that sometimes the district attorney, or in this case, the U.S. attorney has things that he wants to accomplish, and he prevails upon the grand jury to respond in a manner that he wishes. Is that something that was part of this?

Harris: We need a couple of crackers.

Morris: Yes, all right. [coffee break]

Some of the articles that I've read suggest that sometimes the U.S. attorney perhaps is making suggestions to the grand jury about findings that he--

Harris: They were trying to take the grand jury over, in effect. That would imply that there were features about the grand jury that were venal, and that it should be taken over and used for a useful purpose.

The functions of the grand jury had sunk to a level that became public attention. I remember one instance that was very dramatic. O'Gara, who was one of the officers of the grand jury, stood on a chair in the grand jury room and exhorted the jurors to come to a conclusion. He used all of the artifices and devices that could be possibly resorted to in order to accomplish his objectives.

O'Gara, I think, was the alleged firebrand in the whole affair. It was his exhortations and his overweening attitude that brought about the virtual collapse of the grand jury.

There was one vivid portrayal of the real problems, and they were embraced in an article which appeared under the hand of Joe Karesh. That's spelled Karesh, Joseph Karesh. Karesh was the main force in trying to stay and stabilize events. I think that his

Harris: general attitude was such as to require a public recognition of the tremendous efforts he made in aid of justice. I had the transcript of the whole proceedings at some time; I don't know where they are.

Morris: Had there been some previous interaction between the U.S. attorney's office and the district court that caused some feeling on Mr. O'Gara's part that he wanted to--?

Harris: I think that in the bubbling of the discord--it was some time until it spewed over like the volcanic action.

Morris: Similar to our Washington volcano that's so lively. Thank you. [tape off briefly]

Harris: Joe Karesh was an able prosecutor, a man of considerable training and discipline. I think he was a former rabbi. He was entitled to great consideration for his individual efforts, and his design to avoid the consequences of public scandal. That was at the very nub of the thing. O'Gara's conduct was criticized in the press quite vigorously.

Morris: Now, they were both in the U.S. attorney's office?

Harris: Yes. One was the chief--I think Joe Karesh was the chief. It was alleged that O'Gara was using his office for personal--not gain, but personal aggrandizement.

Morris: He eventually received a superior court appointment too, didn't he?

Harris: No.

Morris: Was I.M. Peckham still in the U.S. attorney's office at this point?

Harris: He was in the office, I'm quite sure. His participation I can't recall.

Morris: I would have imagined him to have strong views on this kind of a matter.

Harris: I can't recall any significant events that unfolded, so far as he was personally concerned.

Morris: The note that I have indicates that this whole matter went on from 1951 to 1954. Would that have involved several successive grand juries? Each grand jury, if I'm right, is only appointed for a limited period of time.

Harris: That's a significant question. Motions were made to discharge the grand jury as a dead limb on the judicial tree. People were dispensed with. But the efforts were unavailing. That was one of the key objections that were voiced. That really was an artificial situation that had created itself, and they were being perpetuated.

Morris: So the same panel of jurors stayed in office.

Harris: That's my recollection. That needs checking, though.

Morris: Would they have been able to carry on the normal functions of a grand jury while this particular controversy was going on?

Harris: No. No, I don't think so. I think the matter came before the late Judge Edward Preston Murphy on successive occasions. He had very large and voluminous transcripts.

Morris: You didn't yourself--

Harris: Yes, I participated to some limited extent.*

Morris: When we get to your years as chief judge, you might want to talk a little bit about how you saw the grand jury function as chief of the district.

Harris: I expressed myself quite formally a number of times, and addressed myself to a grand jury on a judicial process gone askew, or gone to pot, so to speak, because its functions were not stabilized, not fair, not judicial, and might result, and I think did result, according to one claim, in grave injustice to innocent people.

Morris: Were there suggestions made about yourself in some of these discussions?

Harris: No.

Morris: Okay. We got a little ahead of ourselves on that, but it's fascinating to--

Harris: It was an event or series of events that marked a new grand jury that had pulse, and life and vitality.

---

*See illustration, p. 153 and press reports of 1951 in the Northern District Court Historical Society scrapbook.

Recollections of Antitrust and Prohibition Issues##

[Interview 8: August 8, 1980]

Morris: I sent you the summary opinion on the American Can case, and I had some questions on it.*

Harris: All right. [pause] The American Can case was a criteria of the precedential cases that I reviewed and was looked to as the beginning and the end of the prosecutions that were forthcoming under the action question.

Morris: This was in antitrust matters. The Federal Trade Commission Act seemed to be important, and the Sherman Antitrust Act and the Clayton Act. In my reading in the hornbook on antitrust, the feeling seems to be that the judges have a major role in antitrust matters in what--extending the law? [Driscoll moves chair closer]

Harris: The judges did have a very powerful influence in formulating the policy and giving guidelines. Referring to the earlier days, I think it was Judge Rose--1912--set a precedent.

Morris: This is always a question, I guess, in antitrust matters: whether a judge will rule that the company should divest itself of certain activities.

Harris: Yes. Judge Rose was asked that question. It's a difficult one, because it's irrevocable. Judge Rose said he thought it was too drastic a remedy to invoke against a corporate body. That seemed to take the wind out of the sails of the prosecution, psychologically.

Morris: Right. The prosecution in this case would have been the United States attorney's office?

Harris: Yes. For instance, the matter of fine was looked upon as something subsidiary to the major role of squashing these evil persons. I say that in the best of humor.

Morris: Right. So your view was not that a corporation was necessarily evil because it was large and in control of a major share of business?

Harris: That's correct. I've often been confronted with a statement; each time I try to apply it as loosely as I can, forgoing the rigid disciplines of irrevocable commitment to the doomsday. Are you getting it all right?

---

*U.S. v. American Can, 87 F. Supp. 18 (1949)

Morris: Yes. I think it's coming through fine. Apparently, the American Can Company had for many years a sizable share of the can business and the closing operations.

Harris: They had the control. American had complete control of the can closing and the tie-ins and every other device known. They had the high-speed on the can closing: they closed, I think, 350 or 400 a minute--that's my recollection.

Morris: So they had been innovators and had introduced new equipment?

Harris: They brought a new vitality to the industry. So that's the credit side of the ledger.

Morris: In a case like American Can, how much of the matters can be dealt with before the actual hearing and trial starts?

Harris: The pre-trial was not as exhaustive in those days. They didn't understand pre-trial as we do today. It was a pro forma matter. The lawyers would be called up and interrogated by the court in a very casual way. If it yielded some evidence, very well and good; if it didn't, it was all very well and good. Just a pro forma bit of procedural technique.

Morris: To get acquainted with the facts and the people?

Harris: Yes, to get acquainted with the issues generally.

But now, pre-trial is so far reaching, so far sweeping, many of the issues are fatally and finally decided in a pre-trial issue. Maybe it's a good thing.

Morris: That's what I was going to ask: what your personal feeling on it was from your own experience.

Harris: I think that wide latitutde is the hallmark of a good pre-trial investigation. It should not be foreclosed by techniques, technicalities, or other devices. I think it's one of the handsomest tools we've had.

Morris: Was this something that the Northern District Court as a whole was interested in, in developing the pre-trial proceedings?

Harris: Yes. The formulation of policy was one that grew quite happily there for a while in the hands of certain lawyers who were very aggressive and looked upon the plaintiff's side of the case as one that had great vitality.

Morris: So the attorneys had a role in expanding pre-trial.

Harris: The attorneys had a very, very definite role, and they yeided their best efforts.

Morris: Do you recall who some of the people in San Francisco were, in the attorney--?

Harris: Yes. [pause] Let me think for a minute. Let me come back to this.

Morris: All right. Off the top of my head, I wondered if somebody like Herman Phleger would have been active in that aspect of court work?

Harris: George Ford was the dean of the lawyers in the field of damage actions, tort actions. He didn't participate to any large extent in the field of antitrust, although he had one or two big cases.

Morris: Mr. Faulkner?

Harris: Harold Faulkner?

Morris: Yes.

Harris: Harold Faulkner appeared in so many of the federal cases that it would be difficult to allocate to him any given area. He was available in criminal, civil, admiralty, equitable causes. He was the most able practitioner in the federal system.

Morris: He made a specialty of presenting cases before the district court?

Harris: Yes, a specialty. Even went to the liquor cases that beset our courts for--the bootlegger's cases.

Morris: Did you sit on any bootlegging cases?

Harris: No, I never did.

Morris: Prohibition had departed by the time you came to the federal bench.

Harris: The cases had been pretty well formulated when I came into it. But I never had a practice involving a criminal side of a bootlegging case. They were taken up mainly by the firm of O'Connor and Faulkner--had most of that.

Morris: That's quite a lively aspect of American history, isn't it?

Harris: Yes, it certainly is.

Morris: Are you saying that some of the bootlegging cases that were brought while prohibition was still the law came to trial after prohibition had been repealed?

Harris: There were some cases that dragged over, but most of the cases were cleaned up pretty rapidly. Pleas were entered rapidly, fines were paid rapidly, and they got on their way rapidly. [Morris laughs]

Morris: It sounds as if some of the people felt that court action was just part of doing business.

Harris: Yes, you could say that. So much for a knockover, and--

Morris: --and then we'll get back to our important work.

Harris: Yes, that's right.

The judges made history, too, with a lot of banter and colloquialisms. But all in all, they survived. It wasn't a very healthy period.

Morris: That's what many people have told us.

Harris: It was a period that yielded itself to bribes and loose practices.

Morris: Some of the patterns established during those years are still with us.

Harris: So there'll be no mistake, I didn't mean bribes to lawyers.

Morris: I understand.

Harris: Bribes handed into the areas of policing and so forth.

Morris: In the business aspect.

Harris: In the business aspect.

Morris: Would the bribes be the subject of some of the court actions, perhaps?

Harris: No.

Morris: It was a sort of thing that was generally known, but nobody could figure out a way to do something about it?

Harris: Harold Faulkner could tell you all about it.

Morris: I've talked to some of the legislators who were concerned with legislative aspects of liquor licensing. It is an interesting story that I gather did affect a lot of aspects of governmental life.

Harris: The real story's been told and retold, and probably that's only scratched the surface.

Harris: The pernicious results of the bootlegging era had a longtime spell over the industry as well as the courts. I think it was demeaning to the courts to try the cases before a federal judge.

Morris: Why would they come to the federal court?

Harris: Jurisdiction--it was criminal statutes.

Standards and Satisfactions; Court Procedures

Morris: Would the court either individually or as a group have expressed an interest to the state that they'd like to see some changes in the laws?

Harris: Judge St. Sure was a spokesman. He was a very aggressive judge and brooked no idle talk in court. He was a man of great stature in my opinion and carried the court almost singlehanded for years. Even when he was critically ill, he was hearing cases. He was quite an inspiration for many of the younger lawyers. I was privileged to work with him as a judge and as a lawyer, found him a great, great advocate. He was somewhat of a disciplinarian, but we had all--

Morris: Disciplinarian? He expected his fellow judges to live up to strict standards of--

Harris: Strict standard of conduct. But he was a humorist, too. I'd tell lots of stories on him.

Morris: Give me a sample.

Harris: [pause] He called on special lawyers to do certain jobs for him. He selected the type of lawyer that he could have banter with, some fun.

The court in those days was not as rigid in its discipline, although there were individuals who were intent on converting it into anything but a vigorous court. It was a vigorous court. It was a court that demanded respect almost intrinsically. To be a federal practitioner was something held in great esteem by the practitioners as well as the courts. And the courts, as well as the practitioners, exacted high standards, very high standards--self-imposed. So it was an era of proclaiming one's virtues rather than demeaning oneself. And to be a federal practitioner was something to be desired.

Morris: In your own case, it still is an unusual thing, isn't it, for a man to go from the state municipal court directly to the federal level?

Harris: It was, and some of the lawyers resented it: I wasn't disciplined enough--at least they resented it, period. But I think I soon exhibited the traits and accomplishments of a seasoned lawyer, worthy of the federal system.

Morris: Did they make life difficult for you when they appeared before you?

Harris: No. They knew me from practice; but there were those who always were carping critics, who siezed upon anything.

Morris: You said a minute ago that there were some who sought to make the federal court less vigorous. In what way would that be? That they didn't want to see so many cases come before it, or--?

Harris: There were certain judges who were regarded as, quote, "tough" in given cases. I think the lawyers in many instances have tried, within the area of decency and good practice, to avoid getting in before certain judges.

For instance, Judge Harold Louderback may be remembered--

Morris: As a tough judge?

Harris: Yes. Certain judges from the Northwest were regarded as difficult.

Morris: In other districts.

Harris: In other districts.

Morris: Would the fact that he was considered a tough judge have anything to do with what I gather was an effort to recall Judge Louderback?

Harris: No, I think the obligation of recall rested more in practices that the judge allegedly engaged in. It was claimed that the judge favored certain practitioners, as [Samuel] Shortridge. [pause] This story has been told and retold many times. Many proceedings were [under]taken in the United States Senate concerning his practices.

Morris: Judge Louderback's practices, or Senator Shortridge's?

Harris: Well, both, I suppose. Senator Shortridge's son was a practitioner before the bar and was criticized.

Morris: There was some question that Senator Shortridge was seeking a federal appointment for his son, am I right?

Harris: I think it's true. I generally had heard through Harold Faulkner, the dean of federal attorneys, and his information would be more accurate than mine.

Morris: Did you have any personal contact yourself with either Senator Shortridge or his son?

Harris: No. I talked to Judge Louderback several times concerning the charges that were preferred against him. But I never talked to the Senator.

Morris: What was Judge Louderback's view?

Harris: Oh, he charged that the political enterprise created it.

Morris: Did that whole unfortunate matter have any relation to his retirement?

Harris: No. He persisted very well. He was a vigorous man intellectually. It was a shame, I always thought, that he was brought into disrepute, into areas of disrepute.

Morris: He'd retired from the district court by the time you came on.*

Harris: I think it was about the time.

Morris: Had you ever presented a case before him?

Harris: Oh, yes. I got along pretty well with him. He was a man of great discipline, and almost--I wouldn't say fanatical--but almost a heroic approach.

Maybe I'll have a sip of the coffee.

Morris: All right. [pause] Let's go back to the American Can case. You mentioned that it was a long and bitter trial.

Harris: Yes. It was a long and difficult trial, bitterly contested. On one side they had the dean of the Wall Street lawyers—the name escapes me for a moment. On the prosecution they had some of the best men in the department.

Morris: That would be--the U.S. attorneys were Frank Hennessy and Herbert Bergson.

Harris: That's correct. Frank Hennessy was a fine prosecutor.

Morris: A San Francisco man who had been U.S. attorney for a long time?

---

*Judge Louderback died in office December 11, 1941. He had served on the district court since April 17, 1928.

Harris: Yes. He always looked forward to going on the federal court.

Morris: He wanted to be a judge. Oh dear! What happened?

Harris: He managed to get on the wrong side.

Morris: That makes some sense in terms of there being different groups within the political establishment.

Harris: Frank Hennessy was a man of all people. He subjected himself to great discipline. He was not a humorist; he was a very able man. He was not unlike many others that graced the bench.

Morris: And Herbert Bergson--was he a deputy?

Harris: A deputy.

Morris: Who would have carried most of the responsibility for preparing a case and then presenting it before the--?

Harris: That would be difficult for me to answer because of the fact that I never served in the United States attorney's office. Ordinarily it was well-maintained, well-disciplined, and well-handled.

Prosecutions were not numerous; prosecutions were normal. Maybe you'd have a couple of trials a week.

Morris: Coming from the U.S. attorney's office.

Harris: Yes. In those days, they'd lean over the bench and say, "Harris," or "Judge George Harris, you'll try the XYZ case." I'd try that case.

Morris: The U.S. attorney would say this to you?

Harris: The court. You'd try it, and you'd try it to the best of your ability. We didn't have the elaborate system of appointment--

Morris: Oh, I see. The chief judge would lean over and say, "Judge Harris, you're going to take this case."

Harris: You'd have the trial starting--

Morris: Yes. "It's going to come up next week."

Harris: That's right. And you'd try it. If you'd had the pits for a year, you'd try it. It was almost a sacred obligation, for the litigants. Very often they didn't have to pay a nickel--not even costs.

Morris: Really?

Harris: Yes, there were no set fees. I know today, in the state courts at least, there's a great amount of money paid for the defense of the cases.

Who has written on the federal courts?

Morris: Quite a lot. All the legal journals carry quite a lot upon them. I've got some bibliography notes. What we've been using is the hornbook on the different subject areas. The hornbook on antitrust matters was written by a man named Sullivan from southern California. He cites Judge Yankwich quite a lot.

Is the U.S. attorney's office like the county district attorney's office in that the district attorney will come in and say, "I've got some materials which I am preparing, and I think I've gotten enough information to bring a case against whatever company." Will they come in and discuss that with a judge before filing a case?

Harris: They discuss it with the U.S. attorney first and get his viewpoint, and then join hands if they can in unanimity of expression.

Morris: The judge and the U.S. attorney?

Harris: Yes.

Morris: That there is merit to a case on these--

Harris: If there be merit to a case, they'll try it.

Morris: Before the case is actually brought--filed.

Harris: No. The judge always tries, somewhat vainly, to avoid discussion of the factual background of any case, or the merit, for fear that it might influence him. That's held in great regard.

Morris: But you would be aware that the U.S. attorney's office was considering bringing a case, for instance, against American Can?

Harris: Oh, yes.

VIII SOME CASES OF NOTE: ADMINISTRATIVE CONCERNS

American Can and Other Antitrust Cases

Morris: Why would it be here in California, in the Northern District, that the American Can case came to court?

Harris: Jurisdiction. It's a favorable site, too, because lawyers are pretty good here. They prepare well, and they're vigorous at the level of their profession. I think that's the main reason.

Morris: Would it have anything to do with the fact that there are fairly major American Can factories here in California?

Harris: Sure. The can-closing industry was at its peak here. And their engineering was at its peak.

Morris: Their research and--

Harris: The research was at its very highest level.

Morris: Here in California.

Harris: They knew that they could only hold the industry in the fashion in which they held the industry by almost superhman activity.

Morris: You mean to hold such control over such a large piece of the canning industry?

Harris: Yes.

Morris: Would this be a situation where other parts of the canning or the agricultural industry or similar manufacturing organizations would be interested in this and would appear in the case also, or be there in court to see what was going to happen?

Harris: As friend of the court. Quite often.

Morris: Was this a factor in the American Can case?

Harris: I don't think so.

Morris: Some of the articles on the case indicate that it was considered to have major reverberations in manufacturing industry. Were you aware of this at the time?

Harris: I realized that we were in big litigation. I realized that the lawyers were the best they could possibly get. I realized that they'd resort to practices of any kind to win.

[coffee break]

##

Harris: I referred to a situation where alleged bribes had been offered. This was only a "commercial massage." I think that's in the opinion.

Morris: This is an American Can person testifying it's a commercial massage.

Harris: Yes. I remember that over the years. Whenever anybody grew hysterical about practices, they always find a parody in American Can.

Morris: Because the testimony was so extreme by all parties?

Harris: No, it wasn't extreme; it was casual. Sort of a casual approach.

Morris: What the government was asking for was elimination of the requirements contracts. What is puzzling is that in 1924, the Federal Trade Commission had ordered American Can to remove these requirements provisions from its closing-machine leases, and American Can said they had done so. But it was 1949 when this case came back to you, and I wondered why it took twenty years to go to court again if the company had not complied?

Harris: I can't quite understand that, because the policing on requirements was very rigid. I just don't understand that.

Morris: Neither did I.

Harris: I remember your notes on it.

Morris: The other puzzling aspect of that is that if there had been tying provisions as far back as 1924, why had they not been found in restraint of trade earlier?

Harris: I must confess that I don't know the answer. Procedure would indicate--practical procedure would seem to indicate that that would be an ample time to bring a host of actions. I don't understand it.

Morris: Was there something particular about the American Can requirements contracts that was in addition to tying contracts that had been ruled on earlier? Did they come up with some kind of new wrinkle that--?

Harris: No. Tie-in requirements contracts represented the main issue of practice that was regarded as violative of the principles of antitrust.

Morris: But in your experience, when one judge rules that this kind of procedure is in restraint of trade, does the business community find some new way of doing things that doesn't meet that objection? Does that have to come back to court again to be--?

Harris: I think not. Why would they come back to court?

Morris: Well, it looks as if over the years there is a series of different cases that different judges rule on and find that something else is in restraint of trade that nobody had happened to raise a question about in earlier cases.

Harris: Isn't that true of factfinding bodies, whether it be an individual or a collective body? Different areas of approach arise and give rise to different areas of thinking. It's part of the philosophy of judging, I guess.

Morris: That human beings are ingenious and inventive and--[pause]--part of the business of judging is to keep up with these new pieces of information and the new--?

Harris: Part of the standards of the day, the philosophies, the mechanical aspects, the dynamics of a particular industry. That's about it.

Morris: The dynamics of the particular industry brings up the next point I wanted to ask you about. You appointed a man named Edward Mitchell--

Harris: Yes, he was my clerk. He was held in high esteem by the federal officials. Everyone knew Ed Mitchell. They knew him for his attention to the details. Lawyers would call him, and he'd go through an infinite amount of agony and some research to satisfy the lawyers. [Earlier, he had been Judge St. Sure's clerk.] He was really the presiding judge of the court when poor Judge St. Sure was taken ill. Judge St. Sure was not well for a year and a half or two years, and he needed help, of course.

Harris: He would give the lawyers as much attention as possible, so that the judge's necessary requirements in tenure would not be altered.

Morris: Would he actually sit there in a hearing with the judge?

Harris: Oh, no, he'd never do that. But he'd go and look up the records, and find out when the activity ceased, and when it started.

Morris: At what point did you assign him to the study of canning operations around the country?

Harris: Well, there were complaints about the reporting of the incidents of transgression, and I got tired of writing letters. We thought it advisable to send someone who knew the terms and could converse with the industry on a factfinding expedition subject to the approval of the court and the attorneys. That was accomplished pretty well through Mitchell. He turned in some revealing matters. Where those records are, I don't know presently.

Morris: Did Mr. Mitchell stay with the courts?

Harris: Not necessarily, no. He was trained in the disciplines of the federal system.

Morris: How long did he do work on this?

Harris: Of that I have no recollection. It might be a year; it might be some significant period of time.

Morris: I would think so. The canning industry is fairly large.

Harris: It took him over the Northwest, South. The reports were looked upon with some favor by not only American, but all the contestants.

Morris: Was this for your use during the trial or in preparing your decision upon the case?

Harris: I think in some instances you'd find that reference would be made to the statistical information developed through the decision. By this I mean the judicial aspect didn't reach that area. It was purely on the level of statistics.

Morris: Did you also use him later on to supervise compliance with your ruling?

Harris: As best we could. It was very difficult.

Morris: But it is part of the function of the court to then supervise the decision, or is that done by the U.S. attorney's office?

Harris: That was left to the U.S. attorney.

Morris: Then, five years later in 1954, the American Can case came back when the U.S. attorney's office alleged there had been violation of the antitrust decree.*

Harris: I think I decided one rather important case later on. There was some question about some infirmities in the pleadings, I think, or something or other. I didn't go to the vitals of the case. I think the cause was amended--this is my best recollection--and proceeded to trial and judgment.

Morris: And you felt that the matter had been sufficiently discussed earlier, so you dismissed the petition.

Harris: Yes.

Morris: One of my questions throughout was why Continental Can was referred to as considerably as it was in the reporting on the American Can case. Then Continental itself, apparently, came before you on an antitrust matter.**

Harris: Mrs. Driscoll must have the file on it. [brief tape interruption]

Morris: Let me try to state the question more simply. How was Continental Can related to the American Can Company difficulties? Continental Can was mentioned in the American Can case, and then Continental Can was also--

Harris: Continental was a very unhappy person about all this prosecution.

Morris: They were unhappy about the prosecution of American Can?

Harris: Yes. They were unhappy about their own involvement. Of course, their involvement was not as productive as the involvement of American, because it was a smaller company.

Morris: That's why I was curious that they were linked together.

Harris: Strategy and tactics. American felt that so long as they had superior numbers before the court, they'd get superior judgment.

---

*U.S. v. American Can Company, 126 F Supp. 811 (1954)

**U.S. v. Continental Can Company, 128 F Supp. 932 (1955) and 143 F Supp. 787 (1956)

Morris: But then Continental itself was brought into court on antitrust.

Harris: Continental dragged its feet.

Morris: So American Can brought Continental into the discussion first.

Harris: Yes, as a matter of tactics. Get as many unhappy souls as you can.

Morris: Then what happened? Did the U.S. attorney's office decide, "Well, maybe we'd better take a look at Continental Can, too?"

Harris: I don't remember.

Morris: Continental also was sued on antitrust matters, having to do with rental rates.

Harris: Yes. I don't remember. Some mishmash.

Morris: Oh, that's fascinating. Is Frank Hennessy still around?

Harris: Frank Hennessy's dead. Frank Hennessy was such a disciplinarian I can't possibly infer any misdoings to him.

Morris: I wasn't thinking of misdoings, I was thinking of the interesting way that one thing leads to another. I can see the logic of American Can getting its little brother, as it were, involved in the case against American Can, and that in turn raising questions about how Continental Can--

Harris: You probably ought to figure a lifetime on your part and my part trying to find the whys and wherefores in the canning industry. The canning industry has a lot of romance to it, background. I suppose it's looked upon like any other industry: as time wears on, the mystique can take on a different pallor.

Morris: I'm wondering if the canning industry is particularly significant in a case in California, because of its relationship to the agricultural industry, which is such a major part of the economy in California.

Harris: They're interlocking corporate parties.

Morris: Were there such issues raised in the case?

Harris: No. The approach to American and Continental Can was one of complete simplicity. Looking back upon those days, and the vast amount of intrigue that goes on, in not only one industry, but many, the vast amount of detail that's assimilated, one must perforce look upon the activities of American and Continental as child's play. Really.

Morris: [chuckles] You have a very tolerant view, it seems to me from your tone of voice, of intrigue in industry.

Harris: I suppose as you continue in a professional career, your vigor sometimes wanes--not professionally--sometimes wanes. Why? I never know; but I just view it as I did.

Morris: You raise an interesting question of the court's role in relation to the intrigue in the business world, that this is another kind of situation--

Harris: I couldn't find a direct proportion. I was trying to say. You can't find a direct proportion, but you can find a semblance of relevance.

Morris: Is it another example of the kinds of checks and balances that have developed in the American system?

Harris: Yes, I think so.

Morris: I've got a couple other short questions here. There was a request to amend an antitrust decree in 1955 against Continental Can. It had to do with your original decree prohibiting acquisition of companies producing containers. Was this seen as an alternative to requiring divestiture of container manufacturing on the general matter of antitrust--not wishing a company to have too large a share of the business? As an alternative to divesting themselves of parts of the business that they could be required not to acquire any additional companies producing, in this case, containers.

And then a year later, the government asked if your prohibition applied to glass containers, as opposed to metal.

Harris: I have no recollection of that at all.

Morris: I was entertained with this. It seems again like a very ingenious distinction, that glass containers did not add to the concentration of control under one company, whereas another tin can manufacturing company would.

Harris: I don't see the probitive value, but perhaps it has.

Morris: Were antitrust matters related to what's become of concern in the sixties and seventies, that mergers may have become too important a segment of the American economy?

Harris: Maybe I'm a little tired, but could you rephrase that?

Morris: I was wondering if antitrust legislation dealt with matters of mergers. Is a merger considered something that somebody might investigate from an antitrust point of view?

Harris: Most of them are investigated by the U.S. attorney's office in Washington well in advance in every considerable aspect. I think at a higher level you'll find pressure groups, too, forming, as you would in all areas of business or profession.

Morris: Maybe we could talk just a minute about the Fox-West Coast case, and then why don't we wind it up for this morning. This was in 1961. It was Samuel Goldwyn Productions v. Fox West Coast.*

Harris: Oh, Sam Goldwyn was sort of renegade in his own profession. I'd better look out for that word renegade. Sort of a character in his own profession. How much of a renegade he was remains to be seen; I don't know. He brought the action in spite.

Morris: Goldwyn wanted to get back at Fox West Coast?

Harris: I suppose.

Morris: Goldwyn was making the films, and Fox had the theaters.

Harris: I suppose. In all events, the case proceeded to trial and many witnesses were prominent in the theatrical firmament. My colleague Judge Murphy tried it. He was somewhat theatrical in his approaches, and somewhat theatrical in his background and approaches. He had vast stage experience.

Morris: What kind of stage experience had he had?

Harris: Plays for the Bohemian Club.

Morris: Did you two ever act together?

Harris: I met him years ago. He was a great Shakespearean student.

Morris: Had you known each other in your student days?

Harris: Yes. Santa Clara University. Murphy was a very distinguished man. I think he rather enjoyed the portfolio of stars he had before him.

Morris: There were two movie cases, and, if I'm not mistaken, I think you sat on the Sam Goldwyn v. Fox-West Coast, and then Judge Murphy sat on U.S. v. Loew's.

---

*194 F Supp. 507 (1961)

Harris: I guess so.

Morris: That's interesting that there were two cases: one in 1961; and one in 1962. Did it bring back memories of the early cases you worked on?

Harris: Yes, it brought back many memories. Tell me, what time is it about?

Morris: It's about twelve-thirty. I think this might be a good place to stop for today.

Harris: It might be, because I have a hearing at three-thirty.

International Longshoremen's and Warehousemen's Proceedings##

[Interview 9: September 30, 1980]

Morris: We've had several weeks' interruption because of your illness, and I'm delighted that you're feeling up to par again.

Harris: And I appreciate, for the record, the courtesy extended to me. I'm prepared to go forward.

Morris: Thank you. I thought this morning we might plunge right into what was probably your most celebrated case on the district court, the case involving Harry Bridges. I wonder if we might preface that by asking about some of the other cases involving the International Longshoremen and Warehousemen's Union. In December of 1948, there was a case in Hawaii, The ILWU v. Ackerman.* You were called to sit on a three-judge court involving that case. I wonder if you could tell me how you came to be a member of that three-judge court.

Harris: [pause] John Biggs, United States circuit judge, called me. He was chief judge then. Is my voice all right?

Morris: Sounds fine.

Harris: [He] called me and indicated they had a problem in Hawaii of some magnitude. The case, he indicated, was far-reaching and had occupied the courts on several occasions. He told me that the local judge in Hawaii would sit with us. That was Delbert Metzger [spells name].

---

*82 F Supp. 65 (1948)

Celebration of Booker T. Washington Day in San Francisco, early 1940s. Judge Harris, second from left, rear. Second from left, front, is Public Defender Gerald Kenney. Others are from the press or police.

Bohemian Grove encampment, 1977
Judge Harris, center, second row.

Harris: Delbert distinguished himself during the war years by resisting the intrusion, as he called it, of the United States army authorities.

Morris: Into the affairs of Hawaii?

Harris: Yes. That's an incident you may recall. He made history when he laid his firearms on the desk of the civil judge in Hawaii; it met with international news. It was really the first clash of the civil authorities and the military in Hawaii.

Morris: Who put their firearms on--?

Harris: Delbert Metzger put his firearms on the desk. The omen, of course, was quite obvious.

Morris: I see. He was going to defend his court?

Harris: He was going to defend his court. It was a very significant act and very dramatic, I thought. Metzger and I became close personal friends after the case. It was a difficult one, all the way through witnesses' testimony in Hawaii and elsewhere.

The propriety of calling a three-judge case was then at stake, were there constitutional infirmities, and the usual investigation was sought.

Morris: Are you saying that there were objections to a three-judge court being impaneled in thise case?

Harris: Yes, there were objections, which we overruled.

Morris: Who objected?

Harris: The Hawaiian authorities. [pause]

Morris: You've spoken of this case as a vigil. I wondered what were the conditions and concerns that made this such an exceptional case.

Harris: It was a case of a very demanding nature. Nerves were pretty well--

Morris: Maui County officials were engaged in activities connected with the dock strike. There was a riot act that had recently been enacted that was called into question.

Harris: The constitutionality of that came up, too. It was impregnated with so many problems, both psychological and otherwise, that it was a very difficult situation. I mentioned to Biggs that I had some misgivings about the propriety of the action on statutory grounds, on the theory that it was not a three-judge case as such.

Morris: What distinguishes a three-judge case?

Harris: A three-judge court is called into question under certain circumstances, as this case was. John Biggs, a profound lawyer and also a dear friend of mine, felt that there were no constitutional infirmities, that it was perfectly proper to call a three-judge case. The matter was reviewed by our circuit, our ninth circuit, and we were reversed.

Morris: On the issues that had caused you some question? The ninth circuit reversed the case on the same grounds that you'd been concerned about?

Harris: Yes.

Morris: Do I hear you saying you would rather not have served on that three-judge court?

Harris: Yes. The United States attorney's office in Hawaii was authorized to manage the case from their viewpoint. There was a young lady from Stanford University also occupying a very important role in the opposition to the three-judge court. Judge Pope--[pause] wrote the prevailing opinion for the United States circuit court on review; and in a very terse opinion, reversed our conclusions. Those were the highlights of it.

Morris: There was also a question in that case about the selection of the jury. There were, I gather, some infirmities in the methods of selecting the jury in Maui County. That aspect of the case is cited as a test case.

Harris: Many of the refinements have gone out of my mind. I did look upon it, and it was looked upon by the public as an important case, and in truth and in fact a test case. The circuit court, however, did not see it our way.

Morris: What I'm curious about is the matter of test cases in general; if you were aware at the time that you were sitting on the case that it was likely to become a test case?

Harris: Yes. It was perfectly evident to me that we were sitting on a case of grave importance to the community, and that it would likely be reversed.

Morris: And that it would likely be reversed?

Harris: Yes. I indicated that to Mr. Justice John Biggs, whom I had a profound respect for. Judge Walter Pope from Idaho, a circuit judge--[pause] wrote a very terse reversal expressing the prevailing opinion.

Harris: Delbert Metzger passed away in the last several years. Justice John Biggs of the circuit court has been quite ill for some time.

Morris: That's unfortunate. I was wondering if there were aspects of this case that had a bearing on the Bridges' case, and other cases involving members of the ILWU.

Harris: No.

Morris: There seem to have been four or five cases within a few years from 1948 to 1951 that you sat on, and I wondered if this was an unusual number of cases involving the ILWU.

Harris: No, the tempo of the times was such as to justify the conclusion that there were many problems of national significance being passed through the courts involving the labor movements and allied activities.

Morris: Would this be things like the Taft-Hartley Act and the National Labor Relations Act?

Harris: Yes, Taft-Hartley. Merely for the record, I should add that I had the first Taft-Hartley hearings in the western states, and the first Taft-Hartley hearings in Seattle, and issued a government decree appropriate in form and nature upholding the act.

Morris: Does that mean you granted an injunction?

Harris: Yes.

Morris: Okay. Did the appearance of the Taft-Hartley Act and the National Labor Relations Act mean that there was then an increase in labor-management cases coming to the federal court?

Harris: Yes.

Morris: Were those primarily brought by employer organizations or by the unions?

Harris: The unions, of course, had to engage in defensive tactics, looking toward their rights. Both acts increased the burdens on the court immeasurably, with very, very far-reaching litigation.

Morris: In the reading I did, I gathered that there were some conflicting provisions in the National Labor Relations Act and the Taft-Hartley Act.

Harris: Without going into the innumerable problems, my answer would be yes, under the circumstances.

Morris: Does that mean in some cases that it allows you, as the judge, greater leeway in arriving at a decision?

Harris: There was considerable discretionary latitude reposed in the jurists, and the administration of the act.

Morris: The Hawaii labor action also came to your court in two other cases: The NLRB v. Gerald A. Brown, ILWU and Longshore and Allied Workers of Hawaii. This involved the picketing in California of a relief ship that was on its way to Hawaii. The decision was first rendered in your court on September 7, 1949.

Harris: Could you repeat that? I missed some of that.

Morris: There was a relief ship in California that was supposed to be loaded with supplies for feeding the people in Hawaii because of the dock strike. The union was picketing that ship in California. There was a suit under the NLRB that came to your court. One of these was the NLRB v. Gerald Brown. You issued a temporary restraining order, and then continued the case. I wondered if this case had a bearing at all on Harry Bridges' own trials, which were due to come up shortly.

Harris: I can't presently recall any direct bearing that it had. That's the Brown case?

Morris: Yes. And one of the issues in the Brown case was whether or not the union and the Matson Navigation Company were willing to negotiate the current strike. I wondered if Harry Bridges would have testified in the Brown case.

Harris: From my present viewpoint, I can't see that it would affect the Bridges case.

Morris: Reading the reports of these cases thirty years later, I have the feeling that you were sort of swamped with things related to Harry Bridges and his union, various cases. I wondered if you felt that way at the time?

Harris: I assume we did. The courts, as I've already indicated, were brought into a welter of decisions and cases, and the demands were very, very heavy. To remember the minute details at this time is a demanding task.

Morris: It is, and you're very patient when I press you for details. It's taken me quite a lot of time just to try and understand the succession of events.

Harris: Well, it's taken a lot of the time of everyone affected. I think it's been justified.

The United States and Harry Bridges*

Morris: I wonder if you recall what kinds of discussions you might have had with Judge Roche, who was the chief judge of the district court at that point, about assigning the Harry Bridges case to you.

Harris: Michael Roche was a great trial lawyer and a great trial judge. I had a great respect for him. I served with him in the Hall of Justice in the criminal courts and came to know him on a very high level. I recall perfectly well that his parting comment was, "George, go in and get your feet wet."

Morris: [laughs] This is when he told you you were going to have the Bridges case?

Harris: Yes. I said--it proved to be a little more than a routine assignment.

Morris: Yes. I would think one might feel that one was going to go out into the depths of the ocean, rather than getting your feet wet.

Harris: Yes. As to the details of the case, again he was very circumspect and very terse. He was certainly a jurist who removed himself from any further contact once a case was assigned.

Morris: Did he say, "Go in and get your feet wet," because you were relatively new on the district court at that point? You'd been there about two years when the Bridges case came to you.

Harris: That's correct.

Morris: Would it have been the most important case that you tried up until that time?

Harris: Well, it was as difficult a case as I tried up to that time. It required a great deal of independent study, and it was a demanding case.

Morris: Did you have any sense, before the proceedings began, that it was going to be as contentious and arduous a trial as it turned out to be?

---

*U.S. v. Bridges: 86 F Supp. 922 (1949), 86 F Supp. 931 (1949), and 90 F Supp. 973 (1950), See also extensive scrapbook of press clippings in Judge harris's papers.

Harris: No, I had no idea. I knew it might be the subject of some acrimony. I envisioned personalities as being somewhat bitter. But otherwise, I sought to treat it as a routine case, as best I could.

Morris: The government brought both a civil case and criminal case against Mr. Bridges.

Harris: Yes.

Morris: Was that a usual way to deal with it?

Harris: No. In this case, there were constitutional issues, and also bearing upon the running of the statute of limitations.

Morris: Did you envision at the time that that might cause you trouble later on, or might cause the decision--?

Harris: Yes. Criminal cases and civil cases sometimes are joined; it appeared here that there were issues leading to a civil controversy as well as a criminal.

Morris: So there were legal controversies in both cases?

Harris: Yes. The running of the statute of limitation was first brought to bear in the criminal case. The decision on the civil case was reserved. [pauses to think] With regard to the issue of the statute of limitations, I knew that it would be raised by the circuit, by our ninth circuit. And it was.

Morris: Even though you knew it would be raised by the circuit, you felt there was sufficient reason to--

Harris: The circuit affirmed me in upholding the intentions of the lower court that statute of limitations was not involved, and did not apply. This issue was passed upon by the Supreme Court eventually, and reversed.

Morris: About the same time, there were several other major trials in other parts of the United States concerning charges of communist activity, including a mass trial in New York before Judge Harold Medina. I wondered if you'd had any contact with him or other judges with similar cases as to how such cases went, or issues that arose? And if you would have perhaps consulted with Judge Medina on dealing with a trial concerning allegations of communist activity.

Harris: Judge Medina on one occasion visited me--more a social vist than a legalistic one. And asked me if I had a bodyguard. It was an honor that I had declined. I cannot recall the details of either case, but I would judge the atmosphere was similar.

##

Morris: What was there about the pre-trial proceedings that led to Vincent Hallinan and James McInnis being added to the defense counsel for Harry Bridges?

Harris: There was no significance, save and except that it was one indication among several that it was to be highly charged and defended cause. Other than that, there was no significance.

Morris: Because both of these attorneys had a reputation for colorful courtroom behavior?

Harris: I suppose that had some bearing.

Morris: Okay. There was also a special attorney general brought out from Washington, D.C. to handle the government's case, a man named F. Joseph Donohue.

Harris: Yes. He was sometimes known as "Jiggs."

Morris: As in Jiggs in the funny papers?

Harris: Yes. He was quite a colorful fellow, and was trying his first criminal case in a district court.

Morris: Really? I had assumed he was one of the more senior, experienced men, and that for some reason, Washington--

Harris: Did you ever meet him?

Morris: --felt should be in charge rather than somebody from the San Francisco office.

Harris: He's a very engaging fellow. All right.

Morris: Why somebody from Washington rather than from the local U.S. attorney's office?

Harris: I couldn't answer that. A question of policy, I suppose.

Morris: Okay, fair enough. Was Harry Bridges himself a major participant in the proceedings, or was it mostly the opposing attorneys?

Harris: Only when called upon to testify.

Morris: From your observations of him in court, what kind of a man was Bridges at that time?

Harris: From his appearance in court?

Morris: Yes.

Harris: In what regard?

Morris: Would you have talked with him in your chambers in the pre-trial proceedings?

Harris: I may have.

Morris: I guess I was thinking in terms of his sincerity, his respect for the law, his attitudes toward the court proceedings.

Harris: Generally his attitudes and deportment were respectful.

Morris: Even though people on his legal counsel were making some rather strong charges about the government's handling of the case and the courtroom proceedings, Mr. Bridges himself managed to be respectful and quiet in the middle of all that?

Harris: [pause] To the best of my recollection, there was nothing in Mr. Bridges' conduct that would justify a contempt citation. There was not.

Morris: But you did cite Mr. Hallinan and Mr. McInnis for contempt, several times.

Harris: Yes. Well, their roles were entirely different from Bridges'.

Morris: Were the charges about improper government witnesses and things like that--were those unusual in a criminal case?

Harris: No.

Morris: What kind of procedures would you use to try and keep a case like that moving to reach a resolution, when the attorneys are engaging in such colorful, opposing charges?

Harris: How do you keep it moving?

Morris: Yes.

Harris: You get the assistance of the court attaches, the skill of the trial judge, availability of witnesses, availability of counsel--so many factors enter into it. All right.

Morris: Can you recall the general line of your thinking that long night when you reviewed the proceedings to date and decided not to send the attorneys to jail for contempt until the Bridges trial was over?

Harris: I did send them to jail.

Morris: Right, but not until after the trial was over.

Harris: That's generally regarded as good practice, because it's designed not to intrude the criminal matter to the point where it might influence the decision and otherwise. Is that clear?

Morris: I think so.

Harris: It's a factor in preserving judgment that sometimes works. It's designed to avoid the consequences of some prejudice that might be directed to the defendant in having a sentence during a trial.

Morris: If you did sentence a defendant's attorney to jail for contempt, that would mean things would have to stop while the defendant went and got a new attorney, is that right?

Harris: Yes.

Morris: Did your announcing that you were going to stop and review the proceedings and consider whether or not to send Bridges' attorneys to jail--did that have an effect at making the proceedings a little more serene and speeding things up?

Harris: I suppose it did.

Morris: A couple of things turned up during the proceedings that you did not allow to be included in the trial. I wonder if you could comment on your reasons for those. In 1945, in an earlier deportation action against Harry Bridges, the U.S. Supreme Court had issued an opinion, one of whose sections held that the charge that Bridges was a communist was not proven. The government's case in 1949 was partly based on an allegation that Bridges was a communist.

Harris: I'll reserve a comment on that.

Morris: There were also some letters concerning Eleanor Roosevelt and Harry Bridges.

Harris: That came in obliquely.

Morris: And you felt they did not have a bearing on the matter at hand? Is that correct?

Harris: I ruled it out.

Morris: Yes. You don't recall why?

Harris: Why? I didn't think it had any probitive value.

Morris: I came across a reference to some articles that you wrote in a law journal about those letters. Was that accurate--during the Bridges trial, did you take time out to write an article for a law journal about the Eleanor Roosevelt letters?

Harris: No recollection.

Morris: I didn't come across such an article when I was looking through your papers.*

Harris: I don't remember.

Morris: When that long trial was finally over, how did you counsel the jurors to deal with the opposing counsel's presentation?

Harris: To preserve decorum?

Morris: Yes.

Harris: The bailiffs and the court attaches handling decorum had the usual problems.

Morris: Did you have to issue any special instructions to the bailiffs?

Harris: I assume not.

Morris: How about the jury itself? What kind of instructions did you give them to deal with this mass of data?

Harris: I particularized and was very careful in preparing and giving instructions.

Morris: Is there any sense, in a case as contentious with as many strong statements being made back and forth, that the manner of the opposing attorneys or the nature of their charges has an impact on the jury?

---

*Further search, after interviewing was completed, yielded a speech titled "A Free Press and Its Relation to the Federal Courts" given by Judge Harris at the Ninth Judicial Council Conference in San Francisco, June 27-July 1, 1950, which also appeared in The Recorder June 28, 29, 30, 1950. The speech notes reporter Westbrook Pegler's comments on letters purportedly written by Eleanor Roosevelt concerning Harry Bridges and gives interesting insights into the climate of the Bridges' trial, as well as outlining the origins and contemporary views of the principle of freedom of press. See Appendix for full text.

Harris: I do not doubt that the general attitude and decorum in the courtroom had some effect upon the jurors.

Morris: The jury came in with its verdict, and then you wrote an opinion on the case?

Harris: I gave instructions to the jury which are matters of record. I ruled on points of law, admissibility of evidence, and wrote some memoranda.

Morris: Are those rulings in your opinion a fairly routine matter, or in something like the Bridges case does this cause you some--?

Harris: The Bridges trial was a little more demanding.

Morris: The case was completed in June of 1950, and Mr. Bridges was at large on bail awaiting his appeal of the court's opinion that he was guilty. On August 7th, 1950, Bridges' bail was revoked, and he went to jail, which was just a few days after the Korean conflict began. The allegations were that he had been, I guess, offering aid and comfort to the enemy, by saying that the United States' military forces should not have become engaged in military action in Korea. I wondered if the revoking of his bail was an action that you could take on your own initiative, or did the U.S. attorney ask you for this?

Harris: My action. I thought at the time that there were valid grounds for a revocation and accordingly revoked. My reasons are matters of record at the time.

Morris: As the Bridges perjury conviction was reviewed in the circuit court and the Supreme Court, I wondered if there was any communication between the district court where the case was heard and the appellate levels.

Harris: Any communication?

Morris: Yes, or if it's just a matter of the record of the case being reviewed.

Harris: Just the record of the case.

Morris: Did you have a particular interest in following the case as it went through the various appeal levels?

Harris: It was followed as a routine matter.

Morris: Okay. So what the U.S. Supreme Court did in 1953 was to order a new trial. Does this action make the judge who originally heard the case feel that his judgment is being questioned? How do you feel when the Supreme Court reverses you and orders a new trial?

Harris: Let me walk around the table. [brief tape interruption]

Morris: We were winding up with the Harry Bridges case. Looking back on it over these thirty years, would you say that it was an instructive experience in spite of the fact that it was a contentious trial and the higher courts saw fit to disagree with you?

Harris: It was an expected decision of the jury. [pause] Whether such expectation would prevail today--[pause] It would present a difficult question. That's enough.

Morris: Would the reversal have had a bearing on Judge Murphy's ruling, when he assigned the Bridges case to Judge Goodman for a second hearing in June of 1955?

Harris: That was on the new indictment. Let me hear your question again.

Morris: Okay. In June of 1955, Chief Judge Murphy, who was then the chief judge of the Northern District Court, heard the opening of the new trial which was ordered by the U.S. Supreme Court of the Bridges matter. I wondered if you would have had any discussions with Judge Murphy or with Judge Goodman, who was eventually assigned to hear the trial after the pre-trial hearings.

Harris: Judge Goodman dismissed the matter.

Morris: Had there been changes in the climate of opinion or in the relevant law that led to his dismissal? More simply put, why did Judge Goodman dismiss the Bridges case when it came back a second time?

Harris: The decision he reached, from a present viewpoint, would seem inevitable. [siren outside] That's enough.

Years as Chief Judge##

Morris: What I'd like to wind up with, then, is a few questions about your years as chief judge of the Northern District Court. In 1961, you became chief judge. I wonder if that's a matter of the judges sitting down and taking a vote or if it's seniority. How does one get to be chief judge?

Harris: [pause] That's a routine matter. It involves point of service and recognition by the court of the capacity of the judge.

Morris: So, in due time, it will be your turn to be chief judge. Is that the way it goes?

District Court Judges' visit to FBI Headquarters, San Francisco, March 2, 1962.

From left: Judge Sweigert, Agent Slattery, Judge Burke, Chief Inspector Tully, Chief Judge Harris, Agent Gebhardt, Special Agent Price, Judge Wollenberg, Judge Carter, and Judge Zirpoli.

Harris: In the ordinary course of events, you would attain the distinction of a chief judge.

Morris: As chief judge, did you continue also to hear cases?

Harris: A chief judgeship involves manifold duties and burdensome duties, extra and in addition to the routine affairs of the court. Some men are ideally equipped for the office. Others--some men are ideally equipped for the office, period.

Morris: Did you find being chief judge a satisfying kind of additional responsibility?

Harris: Yes, I enjoyed it immensely. It was a constant challenge.

Morris: What did you find most challenging about it?

Harris: I found it entrancing--no. I found it engaging and demanding to review my brethren's efforts.

Morris: Is there an operating procedure for meeting with each judge on the court and reviewing with him his current cases and offering advice and counsel?

Harris: Yes. It's a constant vigilance of duty. It's hard to say precisely what is the most demanding.

Morris: Is it your responsibility to orient a new judge when he's appointed?

Harris: If a judge is available, it is sometimes very helpful to have him added to the court for immediate duties.

Morris: This is people from other federal courts that can be assigned for temporary duty on the district court?

Harris: Yes. What was that again?

Morris: You said it was helpful to have a judge who was available for immediate duty.

Harris: Yes.

Morris: Is this a new appointee to the court, a permanent appointee? Or are there judges who are temporarily assigned to the district court?

Harris: Temporarily assigned.

Morris: In the state courts, I know the superior court, for instance, can occasionally have the services of a municipal court if the superior court--

Harris: Yes.

Morris: Does that work in the district court?

Harris: No.

Morris: As chief judge, do you make recommendations as to who might be an appropriate addition to the court?

Harris: No, not ordinarily.

Morris: Let's see. Your fellow judges included Albert Wollenberg and Bill Sweigert. Did they come on the court while you were chief judge?

Harris: Yes.

Morris: I wonder if you could give me a summary of Judge Wollenberg's special skills that you would consider when assigning cases.

Harris: Judge Wollenberg is well-adjusted and adapted to the business of trying cases and other allied activities in the courts. He's a thoroughly mature judge and known for his patience.

Morris: How about Bill Sweigert?

Harris: Sweigert is a very able man, somewhat of a philosopher, and a man of infinite patience and judicial good manners.

Morris: Is there an opportunity for the judges to meet together?

Harris: Yes.

Morris: Would you call regular meetings on administrative kinds of questions?

Harris: Quasi-administrative.

Morris: In other words, the responsibility for administration was all yours, but you could informally consult with them?

Harris: A judge has the right and opportunity to consult with his colleagues at any time. It's in his discretion.

Morris: One hears about the judges' lunchroom--

Harris: That comes under his supervision.

Morris: That this is a place where the judges can informally try out ideas on some of their colleagues.

Harris: Yes, that's true.

Morris: Is this, would you say, an important way for judges to stay in touch with each other on the district court?

Harris: Yes.

Morris: In some of the press clippings that I've read, you've commented on your concern when you were chief judge for making some progress in dealing with the calendar and jury selection and probation matters. Could we talk about each of those a little bit as to what kinds of things you wanted to see happen while you were chief judge? On the calendar--

Harris: I wouldn't have any independent recollection, save and except what the record would provide concerning my attitude and general deportment.

Morris: Was there much in the way of administrative staff for the chief judge?

Harris: Yes.

Morris: I was wondering what kind of staff help you had on your duties as chief judge, in addition to the usual clerks. Was there an administrative officer for the district court?

Harris: The administrative features of a trial judge are far-reaching and entail a lively interest in changes in the law and changes in the procedure of the law.

Morris: As chief judge, do you read up on the changes in the law and see that the fellow judges--?

Harris: You have to read on every subject.

Morris: Was there ever a feeling that too many new laws were being passed to enable the courts to reasonably cope with all the innovations?

Harris: No, nothing like that.

Morris: While you were chief judge, were there some new seats added to the judge, more judges added to the Northern District Court?

Harris: Yes. That's a recurring request.

Morris: How does that happen then?

Harris: Routine procedure.

Morris: Can you request this on your own?

Harris: Well, you've got to get the sense of your brethren, same as any judgment.

Morris: What's the procedure then? You talk to your congressman, or--?

Harris: There's always a pending list of applicants for a federal judgeship. The congressman has wide discretion.

Morris: Doesn't the Congress have to approve an additional seat on the district court?

Harris: Yes.

Morris: Does that take some discussion, some time, to accomplish?

Harris: Yes.

Morris: Is it the Representative or the Senator that's most involved in those decisions?

Harris: Both.

Morris: A few minutes ago, you mentioned getting the sense of the brethren on any decision. Is this a procedure that one uses when making a--

Harris: Yes. In a difficult case.

Morris: In a difficult case.

Harris: It's not uncommon.

Morris: On an informal basis?

Harris: Informal.

Morris: When you do that, do you generally find on the Northern District Court that there's a uniformity of opinion on a given case?

Harris: No, I don't think the occasion would ever arise. Like any other judgment, the court's available, personnel are available, and it remains for you to decide whether you need help. If you do, they're quite willing to help.

Morris: I follow you on that. What I was wondering is, in general, when you feel the need of some consultation, if there were, say, seven judges on the district court, if you would find when you sought advice that their thinking would generally be the same, or would you find that different members--

Harris: There's no means of determining. Not relevant.

Morris: That's a good answer. [chuckles]

Harris: It's simply that there are no means available.

Morris: For determining that?

Harris: Yes.

Morris: One specific example I might ask you about: do you remember the Caryl Chessman case, which was in the state courts for a long time? Caryl Chessman was the "red light bandit" from Los Angeles. He'd been sentenced to death in the California courts. In 1961, Governor Pat Brown very much wanted to have the state legislature pass a bill eliminating the death penalty. Chessman's attorneys were trying every avenue to have his sentence commuted. I believe that the case came through the district court.

Harris: It probably would come through in an extreme case; ordinarily not.

Morris: Two different people that I've talked to recently referred to this. On the day that Mr. Chessman was finally due for execution, one recalled that you asked to have the execution delayed while you reviewed the court record on the matter.

Harris: That might be possible.

Morris: Somebody else recalled that it was Judge Goodman.

Harris: Judge Goodman. Yes. [pause] Judge Goodman is a very able man. We lost him several years ago. Are we about concluded?

Morris: I think so. I wonder if there are some things that I haven't asked you about that you feel would be useful for the guidance of scholars in the law about the work of the district court.

Harris: I have no further comments.

Morris: I really appreciate your patience in providing guidance on events of the past for people seeking to understand our courts today.

Harris: I hope I have made some valid contribution. And I appreciate your intense interest and the validity of your thinking.

Comment on Judge Robert Peckham

Morris: Judge Harris wished to round out this narrative with a comment on the present chief judge of the Northern District Court, Robert Peckham, which he preferred to do in writing after further thought, and forwarded the following statement to the Regional Oral History Office on October 20, 1980.

> I once remarked that "judging is a lonesome business." Not so when we recount the public interest which Judge Peckham has manifested since he took over the arduous task of fulfilling the duties incident to the operation of the federal court. He has, without overstatement, given recognition to the quickening public demands and the complexities of day to day litigation.
>
> Chief Judge Robert F. Peckham has belied the statement that judging is a lonesome business. Never in the history of the federal court have we seen such demanding controversial issues so readily disposed of by a sensitive roster of federal judges.
>
> Evaluating Chief Judge Peckham's constant vigilance, we find him immersed in public and social issues to a degree unparalleled in our courts. Chief Judge Peckham is truly a leader and a chief among his colleagues.
>
> Judge George B. Harris

Transcriber: Matthew Schneider
Final Typist: Keiko Sugimoto

TAPE GUIDE -- Judge George B. Harris

Interview 1: April 17, 1980	1
tape 1, side A	1
tape 1, side B	11
tape 2, side A [side B not recorded]	21
Interview 2: April 23, 1980	24
tape 3, side A	24
tape 3, side B	33
tape 4, side A [side B not recorded]	42
Interview 3: May 16, 1980	48
tape 5, side A	48
tape 5, side B	57
Interview 4: May 23, 1980	66
tape 6, side A	66
tape 6, side B	74
tape 7, side A [side B not recorded]	85
Interview 5: May 30, 1980	89
tape 8, side A	89
tape 8, side B	93
tape 9, side A [side B not recorded]	102
Interview 6: June 6, 1980	108
tape 10, side A	108
tape 10, side B	117
tape 11, side A [side B not recorded]	126
portion of tape 12, side B moved for continuity	131
Interview 7: June 20, 1980	142
tape 12, side A	142
resume tape 12, side B	152
Interview 8: August 8, 1980	158
tape 13, side A	158
tape 13, side B	168
Interview 9: September 30, 1980	175
tape 14, side A	175
tape 14, side B	181
tape 15, side A [side B not recorded]	187

Appendix A [appeared in The Recorder, June 28, 29, 30, 1950]

A FREE PRESS AND ITS RELATION TO THE FEDERAL COURTS

- REMARKS OF JUDGE GEORGE B. HARRIS

"A FREE PRESS AND ITS RELATION TO THE FEDERAL COURTS"

During the course of the recent case of United States v. Harry Bridges public interest, as evidenced by the breadth and completeness of newspaper coverage, was extremely great. The extent to which individuals through the country--and in such outlying areas as Alaska and the Hawaiian Islands--were following the trial, was brought home to me personally by the volume of letters which were received in the course of the lengthy contest. I am informed that there were present in court the largest press representation in the history of litigated cases in the West.

In view of the fact that the Press did such outstanding work in the Bridges case, it may appear strange that I should presently single out an instance of poor and misleading reporting. Yet I am constrained to do so because I believe the particular example is illustrative of a certain type of writing which is extremely detrimental to the maintenance of a dignified court system. Furthermore, it constitutes an abuse of the freedom which is accorded the Press under our Constitution and may be the type of reporting which ultimately leads to the imposition of restrictions on a free press.

Specifically, I have reference to an article which appeared on Wednesday, April 12, 1950, in Westbrook Pegler's syndicated column.

Before I review the highlights of the column, I should note that it is the conceded prerogative of a columnist, or other newspaper writer, to express his own views or interpretations of any event, legal or otherwise, which occurs. Such writer may comment without restraint either factually or in slanting his views. However, there is no requirement or limitation which should be imposed upon any reporter who purports to inform the public: He should first equip himself with the facts. Thereafter, he is free to present his own interpretation of those facts.

When a columnist intends to editorialize upon a trial or any phase of a trial, he may obtain his factual foundation without difficulty. He has access to records in the Clerk's office of the trial court. He may learn for himself exactly what took place in the course of a trial. If he cannot conduct a personal investigation, he may obtain the necessary information promptly and accurately from a representative.

In reporting an incident which occurred during the Bridges trial, Mr. Pegler relied upon information which was not trustworthy. Accordingly, the analysis which he made, based on inaccurate source material, was bound to be misleading and to be most unfair toward the person or persons dealt with in the article. But of far more tragic consequence than any injury done individually to reputations was the implied premise of political corruptbn on the part of court and government counsel. That the article was false--and harmful in its implications--is made clear from a reading of the column in question and comparing it with the testimony to be found in the printed record.[1]

---

[1] Tr. pages 2270-2287.

I shall review the first several paragraphs in Mr. Pegler's column: The subject matter is Eleanor Roosevelt; the situs of the action is the District Court; the event is the Bridges trial. Mr. Pegler is attempting to summarize events which supposedly occurred during no phase of the trial. An analysis of his article discloses that each and every assertion of fact is inaccurate, incomplete, or untrue. Thus, Mr. Pegler commences: "The trial and conviction of Harry Bridges produced further evidence that Eleanor Roosevelt is a bad security risk and should be denied further access to confidential information." As a matter of fact, Mrs. Roosevelt's name was mentioned at only one juncture in the trial and nothing in the way of evidence was adduced to show that she was a bad security risk or any risk at all, nor that she had access to confidential information in the Government files.

He continues, "Unquestionably she got her hands on confidential FBI reports on Bridges and wrote on White House stationery a letter to friends of the defendant."

The trial testimony did not establish that Mrs. Roosevelt was able to get her hands on any FBI files or reports on Bridges. No letter suggesting that she had access to confidential information was offered in evidence. It is possible that she may have written a letter to a friend or friends of the defendant on an occasion some nine years before the instant case; but the record is barren of proof of its contents.

Pegler goes on: "The public does not know what the letter said. F. Joseph Donohue, the Special Prosecutor, a Democrat, and Judge George B. Harris, also a Democrat, excluded the text from the record.

The transcript of the trial discloses that counsel for defendants referred to a letter purportedly written by Mrs. Roosevelt to Mrs. Mervyn Rathborne, wife of one of the Government witnesses in the present case. By innuendo, the question involving the letter suggested that the writer had been critical of witness, Krolek. But nothing was said or implied in the question as to indicate that the author had access to confidential sources of information. Furthermore, no offer of proof was ever made by counsel for the defendant of any letter written by Mrs. Roosevelt. Therefore, it was impossible for either Mr.Donohue or the Court to exclude such a letter from the record.

Again quoting from the article: "Nevertheless, the letter is known to have existed. It proves that she did have access to confidential FBI reports which are supposed to be withheld from all unauthorized and unofficial persons." There is no proof that Mrs. Roosevelt ever wrote a letter with contents suggesting or establishing that she had access to confidential FBI reports. At most, the trial record discloses that Mrs.Roosevelt may have written a letter to Mrs. Rathborne in 1941. The letter was not offered in evidence, it was not made a part of the record; its contents were and are unknown.

If defense counsel had such a letter, written by Eleanor Roosevelt, it was never produced for a ruling

by the Court—and no subsequent mention of the incident was thereafter made. It is quite obvious that neither the Court nor Government counsel exercised any control over the production of the letter. Yet Mr. Pegler has chosen to criticize Court and Government counsel for excluding from evidence an unidentified letter.

II

Though a well known columnist has committed serious wrong toward several individuals as well as the Federal Court, there is little recourse for those injured.

In its desire to give full scope to the Constitutional guarantee of freedom of speech and of the press, the Supreme Court has gone to extremes to protect the rights of the citizen to express himself, orally or in writing. Today the individual must exercise only a bare minimum of restraint. Just how far the individual may go is expressed by Mr. Justice Douglas in his majority opinion in the case of Terminiello v. City of Chicago, 337 U.S. 1: ". . . . . a function of free speech under our system of Government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, criticism, dissatisfaction with conditions as they are, or even stirs people to anger. . . that is why freedom of speech, though not absolute. . . is nevertheless protected against censorship or punishment unless shown likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest."

In the case of Terminiello, the particular speech which was the subject of prosecution had eventuated in rioting, injury to persons, and property damage. The

police had been called in large numbers to quell the disturbance. The Court found that the speech itself was not sufficiently inflammatory to produce a clear and present danger. In effect, the Court suggested that additional police should have been afforded so as to have prevented the rioting which ensued.

Our judges were not always so solicitous of the rights of the individual to express himself as he saw fit. But America's heritage of freedom of speech and of the press is now more than 200 years old.

Many years before the colonies achieved their independence from England, bold individuals in this country did not hesitate to express themselves when they were angered by the abuses of the Colonial Administration. Representatives of the Crown took action against such critics.

The particular case which is credited with having established the doctrine of freedom of the press arose in 1735, during the reign of King George II. It involved John Peter Zenger, a German immigrant, who was tried in that year for having committed a libel against the Government.

When John Peter Zenger arrived in this country from Germany at the age of twenty, he was trained as a printer. In 1733, he reported certain political events which transpired during the course of a New York assembly election in which Lewis Morris defeated the Royal candidate. The "New York Weekly Gazette" refused to publish Zenger's article because of its unfavorable references to Governor Cosby, the Colonial Governor of the province. Thereupon, Zenger determined to publish his own newspaper, which he called "The New York Weekly Journal."

In his publication Zenger printed articles which were critical of Cosby, his counsel and the general assembly which carried out his wishes. Despite pressure and threats Zenger refused to desist from his printing. When the Grand Jury refused to indict Zenger for libel, Chief Justice James DeLancey induced the Attorney General to file an information against Zenger.

The particular publication, which the Governor complained of, read as follows:

> They (the people of the City and Province of New York) think, as matters now stand, that their liberties and properties are precarious, and that slavery is likely to be intailed on them and their posterity, if some past things are not amended; and this they collect from many past proceedings.

At the trial of Zenger, his counsel admitted the publication. The Attorney General thereupon rested his case, stating that, since Mr.Zenger conceded that he had published the libel, he was guilty of the crime charged.

Andrew G. Hamilton, who defended Zenger, sought to prove the truth of the publication as a defense; he was stopped by the court which held that such a libel could not be justified regardless of its truth. Such was the rule in the court of the Star Chamber. When Hamilton was blocked by the court, he made his appeal directly to the jury and over the head of the judge. In effect, he asked the jurors to defy the harsh law read down by the judge and to protect a citizen's right to speak the truth in governmental matters. He concluded:

> "Men who injure and oppress the people under their administration, provoke them to cry out and complain; and then make that very complaint the foundation for new oppressions and prosecutions. I wish I could say there were no instances of this kind. But to conclude, the question before the Court, and you, gentlemen of the jury is not of small nor private concern; it is not the cause of a poor printer, nor of New York alone, which you are now trying: NO! It may,

> in its consequence, affect every freeman that lives under a British Government on the main of America. It is the best cause; it is the cause of liberty; and I make no doubt but your upright conduct, this day, will not only entitle you to the love and esteem of your fellow-citizens; but every man, who prefers freedom to a life of slavery, will bless and honour you, as men who have baffled the attempt of tyranny; and, by an impartial and uncorrupt verdict, have laid a noble foundation for securing to ourselves, our posterity, and our neighbours, that to which nature and the laws of our country have given us a right - the liberty - both of exposing and opposing arbitrary power (in these parts of the world) at least by speaking and writing truth."

Despite the protestation of the Attorney General to the argument, and the instructions of the Chief Justice that Hamilton's words were not the law, the jury acquitted Zenger. His acquittal constituted a great victory for the cause of liberty and in effect established the doctrine of freedom of speech. Today, truth with good motives and for justifiable ends, is now a complete defense to a criminal libel. Furthermore, a libel upon a Governmental body, as such, is not recognized.

Recent decisions unfold the latitude now afforded newspapers in their comments. They may castigate courts and judges - even during the pendency of litigation. Reporters are no longer curbed by fear of judicial wrath. Current decisions have established the futility of making contempt rulings against reporters and editorial writers who have intruded themselves into the judicial picture, even before the conclusion of a trial.

In Craig v. Horney, 331 U.S. 367, the Supreme Court followed a doctrine which it had expressed with clarity in two previous cases, namely, Pennekamp v. Florida, 328 U. S. 331, and Bridges v. Calif., 314 U.S. 252.

In the Craig case the reporting and editorial writing of a Corpus Christi, Texas, newspaper were held to be non-contemptuous, despite the abusive language used and the implied political threats contained in the articles. A state trial judge had directed a recalcitrant jury to bring in a verdict in favor of the plaintiff in an unlawful detainer action. The defendant, who was a veteran, had the sympathy of both jury and public. The newspaper account fanned the sympathy into a white heat of indignation against the judge and his rulings. This was done before the Court had passed upon a motion for new trial.

Despite the fact that the paper labeled the judge's ruling as a "gross miscarriage of justice" and spoke of the judge's behavior as having brought down "the wrath of public opinion on his head"; despite the fact that the paper stated that a service man "seems to be getting a raw deal," and "there is no way of knowing whether justice was done, because the first rule of justice in giving both sides an opportunity to be heard, was repudiated," the Supreme Court held the writing came within the protective orbit of constitutional safeguards of freedom of the press and was not contemptuous.[2]

---

[2] The Court analyzed particular writings in terms of their likelihood of creating a "clear and present danger" to the administration of justice. Bridges v.Calif. extended the freedom of press doctrine beyond the earlier view that a Federal Court might punish by contempt a writing which had "a reasonable tendency" to obstruct the administration of justice.

The present attitude of the Supreme Court is well expressed in Pennekamp v. Florida, where the Court stated, p. 347: "Courts have power to protect the interests of prisoners and litigants before them from unseemly efforts to pervert judicial action. In the borderline instances where it is

The Court concluded that the articles in the Texas paper were unfair reporting of what had transpired, but did not achieve such likely interference with the judicial process as to constitute themselves contemptuous. The Court observed that inaccuracies in reporting are commonplace and should not be the basis for making the reporter guilty of contempt. It suggested that unless reporting were so designed and executed as to poison the public mind and lead to a march on the Courthouse and thus imperil the proper function of the judicial process, writings do not achieve the stature of contemptuous reporting. Strong and intemperate language, which constitutes unfair criticism, receives the protection of the constitutional safeguard of freedom of the press. A Judge is deemed to be one who is not too sensitive to the winds of public opinion-- a man who is able to stand up and apply the law without fear or favor.

In the Pennekamp case, the court refused to hold contemptuous editorial writing in a Florida paper, the "Miami Herald," despite the fact that its reporting and comment were inaccurate, misleading, and unfair. The paper criticized the dismissal of certain criminal indictments and suggested that the Court was not interested in protecting the public against dangerous criminals. The

---

2 (cont.)
difficult to say upon which side the alleged offense falls, we think the specific freedom of public comment should weigh heavily against a possible tendency to influence pending cases. Freedom of discussion should be given the widest range compatible with the essential requirements of the fair and orderly administration of justice."

paper was, or should have been, cognizant of the fact that the prosecutor himself had agreed that the indictments were faulty and should have been quashed and the further fact that the defendants were immediately re-indicted.

The Supreme Court held that such deficient and misleading reporting did not establish a clear and present danger to the administration of justice and hence did not warrant a holding of contempt. A judge is supposed to have more than ordinary fortitude and is supposed to be able to withstand attacks and criticism, however distorted and unjust, and to decide cases according to the law. The editorials and reporting in question were considered less than sufficient to move judges from fulfilling their proper functions.

In the Bridges case, supra, it may be recalled that the Los Angeles Times and Harry Bridges were both involved in a contempt action which arose by reason of articles and telegrams, commenting on a labor case before the trial court had made its ultimate decision. The newspaper had urged the Court to deny probation to defendants whom it characterized as "Gorillas." Bridges sent a telegram to the Secretary of Labor, suggesting that a strike might follow an adverse ruling by the trial judge before whom the case was pending. The majority of the Supreme Court held that under the Constitutional safeguard of freedom of the Press neither publication constituted contempt of court. While both writings were of a nature to bring criticism upon Court processes, they were not of the character which would warrant a Court in exercising its

contempt prerogative to punish those who abuse their constitutional right.

The liberal protection afforded the Press is also accorded the radio. Such would appear to be the case in the light of Maryland v. Baltimore Radio Show, 67 A 2d 497, cer. den. 338 U. S. 912. The highest court of Maryland held that an inflammatory broadcast made by a news reporter after the arrest of a man, charged with the murder of a child -- and before indictment or trial-- did not constitute contempt. The Maryland Court expressed the view that such a broadcase did not interfere with the fair administration of criminal justice, despite the inciting effect of the account on listeners, from whom a jury had to be chosen.

From a review of decisions dealing with newspaper contempt litigation, one would conclude that there is little protection afforded the judge. Where a conflict arises between protecting an editor, a reporter, or a columnist as against safeguarding the decorum and impartiality of Judge and Court, the freedom of Press concept prevails in almost every instance. Any doubt is resolved in favor of the newspaper writer or - today - the radio broadcaster. Such solicitude for media of expression and information is proper; but how far should it go? It is vital that the Press be permitted to cover a trial without judicial curbs. Yet there is danger in the abuse of complete and absolute freedom - an abuse which subverts the press, misinforms the public and weakens the independent judiciary.

In the recently concluded Bridges case, the Court accommodated the largest Press contingent in the history of a court in this part of the country. It welcomed such breadth of representation. The Court felt that it had a duty to perform enabling reporters to cover the trial completely and accurately--this, so the public could be informed. That the representatives of the Press were able, conscientious, and appreciative is made manifest by the thoroughness and general objectivity which characterized their daily accounts of trial activities. An excerpt from a letter received by the Court from a feature writer, Dick Pearce, on a morning paper will indicate the attitude of the great majority of Press representatives:

> "I have a conviction, formed over many years of observation, about the role of a responsible newspaperman in a courtroom. Just as the judge has the duty to see that the defendant receives a fair trial, the reporter has the duty to see that a fair public report of the trial is made. In this sense the newspaperman becomes an officer of the court as truly as the lawyer.
>
> Your attitude toward the press indicated to me that you share this view. As a result of your quiet acceptance of our occasionally sudden comings and goings in your courtroom, and of your recesses at certain crucial times, the public received a much more rapid, complete and fair account of the trial than would otherwise have been possible.
>
> In this particular trial the obligations of all of us were greatly intensified. I share with you the belief that those obligations were fully met."

Fairness was the keynote of the local Press. Both the judiciary and the reading public should be made aware of this. That there were exceptions to accurate reporting is made clear by examining excerpts from a paper of relatively small circulation, namely, the "People's World."[3]

---

[3] April 5, 1950.

Fortunately, colored and vitriolic accounts of the proceedings were rare. The public had access to the daily press and could judge for itself who was telling the truth.

Westbrook Pegler's article belongs in a different category. Here is a column of nationwide circulation, presumably read by millions of people. These millions did not have the benefit of detailed and regular reports of proceedings as did the citizens of the Bay Area. Dispatches sent by the National Press Associations were exceedingly accurate; but they received varying degrees of attention, depending upon attitudes of local editors and their estimate of the importance of the news. Suffice it to say that the Bridges case did not achieve the careful and complete coverage throughout the United States which would enable the great mass of Pegler readers to evaluate the truthfulness or the accuracy of the particular statements made by Pegler. Thus, most followers of the columnist would gather that the Court and Government prosecutor deliberately excluded from evidence a relevant letter written by Eleanor Roosevelt. They would believe such a letter was offered by the defense and blocked by a colluding judge and prosecutor--at the expense of the defendant--in order to protect the good name of the former first lady and the administration which her husband headed. It is such reporting which calls for elimination, if possible, and correction in any event.[4]

The contempt remedy has been so weakened by Court interpretation, designed to safeguard the freedom of the

---

4 See "When the Press Collides With Justice" by Judge S. H. Rifkind in New York County Lawyers Ass'n Bar Bulletin June 1950

Press, that it is no longer an effective means for compelling a paper to check all of its facts before printing them. Does the law of libel safeguard the judge or the prosecutor? The answer is very likely "no"! It is most difficult for a Judge to establish personal damage to himself by reason of comment which is false or grossly inaccurate. As a matter of fact, the task of proving a libel is more burdensome and has more requirements to fulfill than that of establishing contempt. Unless a report attacks judicial integrity in such clear language as to remove all doubt in the minds of readers, a Judge has little hope of conducting a successful libel suit.

The courts are presented with a dilemma: How to protect freedom of the press and at the same time assure litigants, judges, and lawyers of a fair trial, reported accurately. Courts bend over backward to protect newspapers even though their articles and editorials reflect on the judiciary, are misleading and biased. The Founding Fathers believed that it is wiser to allow men to express themselves freely than it is to curb their views in order to safeguard the reputation and good name of a man attacked.

The philosophy behind the Supreme Court decisions is well put by Oliver Wendell Holmes wherein he said:

> "With effervescent opinions, as with the not yet forgotten champagnes, the quickest way to let them get flat is to let them get exposed to air."

Judge Leon J. Yankwich, author of "It's Libel If You Print It," in expressing the tolerant attitude which should be adopted, said: "By the contrary policy we throw over unpopular opinions the mantle of persecution and crown them with the halo of martyrdom--sources of growth

and strength which, under a policy of tolerance, would not be theirs."

Let us trust that the representatives of the fourth estate will learn to realize more and more the responsibility which is theirs and will assume the reciprocal obligations which are a concommitant element of their wide freedom of expression.

In the "Saturday Review of Literature," June 17, 1950, under the feature "Trade Winds" there appears an interesting comment:

> "Daily columnists discovered long ago that the surest way to attract attention is to take out a hammer and start bopping people over the head with it. Every time a popular new victim is uncovered another paper signs up for syndication rights. In this particular line of endeavor the voice with the snarl wins. How many letters a day, for instance, do you imagine a professional sourpuss like Pegler gets?"

I might add that I have not written to Mr. Pegler. Nor do I intend to do so in the future.

It is my hope that the views which I express may find their way into a responsible working press and re-affirm therein a consciousness of the obligation which is so readily accepted by most of our outstanding reporters, columnists and editorial writers.

Appendix B

CLOSING REMARKS OF UNITED STATES DISTRICT JUDGE GEORGE B. HARRIS ON THE OCCASION OF THE SAN FRANCISCO BAR ASSOCIATION DINNER ON OCTOBER 28, 1970, FAIRMONT HOTEL

I HAVE OFTEN THOUGHT THAT THE RICHEST GIFT A MAN MAY HAVE, IS THE ESTEEM AND AFFECTION OF HIS FELLOW MAN. TONIGHT TRULY IS AN INSPIRING EXPRESSION OF AFFECTION AND FRIENDSHIP.

IN ACCEPTING THE HONORS ACCORDED THIS EVENING, I DO SO WITH AN ABIDING SENSE OF HUMILITY. I AM MINDFUL THAT THERE IS A SYMBOLISM IMPLIED IN THE TRIBUTE WHICH THE SAN FRANCISCO BAR ASSOCIATION AND OUR FRIENDS HAVE TENDERED.

I SHOULD LIKE TO ACKNOWLEDGE THE ACCOLADE AS ONE PAID TO OUR FEDERAL COURTS, AS A WHOLE.

WHATEVER I HAVE DONE AS AN INDIVIDUAL COULD NOT HAVE BEEN ACCOMPLISHED WITHOUT THE INSPIRATION, DEVOTION AND INTENSE COOPERATION OF MY DISTINGUISHED FRIENDS AND COLLEAGUES OVER THE YEARS.

AS I LOOK OVER THE VISTA OF HAPPY FACES IN THIS GREAT DINING HALL, I SEE MANY OLD AND DEAR FRIENDS - LAWYERS I HAVE KNOWN SINCE 1926 WHEN I STARTED TO PRACTICE. ALSO, MANY NEW, FRESH, VIGOROUS FACES APPEAR ON THE SCENE. IT IS HEARTENING TO NOTE THE PRESENCE OF SO MANY OF OUR YOUNGER MEMBERS OF THE BAR, WHO ARE DESTINED TO AND MUST CARRY VERY HEAVY BURDENS IN MEETING THE CHALLENGES AND DYNAMICS OF A RAPIDLY CHANGING SOCIETY.

TIME LIMITATIONS FORECLOSE AN OPPORTUNITY TO SINGLE OUT FOR PERSONAL RECOGNITION ALL THOSE WHO CONTRIBUTED SO LARGELY IN ACHIEVING THIS BEAUTIFUL TRIBUTE. I HAVE HAD AN OPPORTUNITY EARLIER THIS EVENING TO EXPRESS APPRECIATION TO MANY OF OUR FRIENDS DURING THE RECEPTION PRECEDING THE DINNER. PLEASE ACCEPT MY LASTING THANKS AND GRATITUDE, PARTICULARLY THE VIGOROUS COMMITTEE UNDER CHARLES SCULLY'S DIRECTION.

IN ORDER TO BRING INTO FOCUS THE COLORFUL EVENTS OF TONIGHT, MAY I RETURN VERY BRIEFLY TO MY INDUCTION CEREMONIES AS A UNITED STATES DISTRICT JUDGE ON JULY 17, 1946.

AS I RE-READ THE TRANSCRIPT OF THE PROCEEDINGS I WAS AGAIN REMINDED OF THE ETERNAL VALUES OF FRIENDSHIP.

MANY PERSONS HERE TONIGHT WERE ALSO PRESENT WHEN I ENTERED THE PORTALS OF THE FEDERAL COURT:

CHIEF JUSTICE PHIL GIBSON, RETIRED, WHO PLAYED AN IMPORTANT ROLE IN MY CAREER, WAS PRESENT THEN AS HE IS TONIGHT.

MR. JUSTICE TOM CLARK, RETIRED, ASSOCIATE JUSTICE OF THE SUPREME COURT, WHO PLAYED AN EQUAL ROLE, IS AGAIN WITH ME.

ALSO, RUDOLF FRIML, WHO GRACES THE HEAD TABLE, WAS RECOGNIZED BY THE LATE AND DISTINGUISHED JUDGE ST. SURE, THEI PRESIDING. HE SAID:

"I REFER TO MR. RUDOLF FRIML, WHOM WE ALL KNOW AT LEAST BY REPUTATION, AND WHOSE MUSIC WE ALL LOVE. HE IS HERE TODAY TO PAY HIS HOMAGE TO HIS FRIEND, AND TO CONGRATULATE HIM ON HIS ASCENDENCY TO THE FEDERAL BENCH." * * * * * *

INDUCTIONS AND CEREMONIES OF THIS KIND ARE INEVITABLY COUPLED WITH GREAT EMOTIONAL SURGE. WHAT I THEN SAID TWENTY-FOUR YEARS AGO AT THE CLOSE OF THE INDUCTION CEREMONIES, COULD VERY WELL BE REPEATED TONIGHT:

"SOMEONE ONCE SAID THAT A FEDERAL JUDGE MUST FIRST BE TESTED IN CRUCIBLES OF FIRE AND THEN, HAPPILY ENOUGH, HE IS WELDED IN AND BY THE LOVE AND COMPANIONSHIP OF HIS FRIENDS." * * * * *

THE LOVE AND COMPANIONSHIP OF MY FRIENDS ARE AGAIN MANIFEST TONIGHT.

* * * * *

THE COURTHOUSE SHADOWS LENGTHEN AS WE COME TO THE CLOSE OF A JUDICIAL JOURNEY WHICH COMMENCED IN THE SAN FRANCISCO MUNICIPAL COURT IN 1941 - 29 YEARS AGO.

THE EXPERIENCES HAVE BEEN RICH AND CHALLENGING, PARTICULARLY THOSE IN THE OLD HALL OF JUSTICE; THE ASSOCIATIONS WITH FELLOW JURISTS AND THE MEMBERS OF THE BAR AFFORDED A CONSTANT SOURCE OF INSPIRATION AND GUIDANCE.

THERE IS A SLENDER THREAD THAT IS WOVEN INTO THE FABRIC OF JUDICIAL LIFE, - THE SLENDER THREAD OF CIRCUMSTANCE.

THERE WAS A SLENDER THREAD OF CIRCUMSTANCE THAT IMPELLED ME TO FOLLOW THE LAW, DISCERNIBLE IN RETROSPECT AMID ALL THE WORKINGS OF PROVIDENCE, THE TRICKS OF DESTINY AND THE DICE-CASTS OF FATE WHICH BROUGHT ME TO THE BENCH.

WE SIMPLY ARE NOT ELEVATED TO THE FEDERAL BENCH, OR ANY BENCH, BY THE DIVINE RIGHT OF KINGS (ALTHOUGH SOME BELIEVE IT); NOR ARE WE ANOINTED WITH ANY GREATER INTELLIGENCE, INSIGHT OR ACUTENESS, AS COMPARED WITH THE MANY ABLE PRACTITIONERS BEFORE US. FORTUNATELY, WE ARE OFTEN INSPIRED TO GREATER HEIGHTS BY THE ASSOCIATION, GUIDANCE AND DIRECTION OF SOME COLLEAGUE OR JURIST; - SUCH A JURIST WAS LEARNED HAND . . . .

SOME YEARS AGO I WAS CONCLUDING A VERY LENGTHY ANTITRUST CASE, UNITED STATES v. AMERICAN CAN. MY CHAMBERS IN THE FOLEY SQUARE COURTHOUSE, NEW YORK, ADJOINED THOSE OF JUSTICE HAND. IN THE LATE AFTERNOON, AFTER COURT SESSIONS, WE WOULD OFTEN VISIT, - A RARE PRIVILEGE FOR ME. HIS DELIGHTFUL HUMOR, REFRESHING VIEWS ON ANY SUBJECT, AND KEEN PERCEPTION, AFFORDED A PLEASANT CONTRAST AFTER THE LENGTHY HEARINGS.

LEARNED HAND, A TRULY LEGENDARY FIGURE, USUALLY ENTERED ON A WIDE RANGE OF CONVERSATIONS, CENTERED ON EVERY CONCEIVABLE SUBJECT, INCLUDING THE NEW YORK THEATRE, GILBERT AND SULLIVAN, POETRY, PHILOSOPHY AND ANY OTHER AVAILABLE SUBJECT WHICH MET HIS FANCY.

OVER THE YEARS, I HAVE FOUND A SOURCE OF COMFORT AND INSPIRATION IN RE-READING AND RE-AFFIRMING HIS ELOQUENT AND MOVING TEXT IN THE "SPIRIT OF LIBERTY." THE TEXT, IN PART, IS MEMORABLE AND PARTICULARLY APT IN THESE SORRY, TRYING, PARLOUS TIMES:

"AND WHAT IS THIS LIBERTY WHICH MUST LIE IN THE HEARTS OF MEN AND WOMEN? IT IS NOT THE RUTHLESS, THE UNBRIDLED WILL; IT IS NOT FREEDOM TO DO AS ONE LIKES. THAT IS THE DENIAL OF LIBERTY, AND LEADS STRAIGHT TO ITS OVERTHROW. A SOCIETY IN WHICH MEN RECOGNIZE NO CHECK UPON THEIR FREEDOM SOON BECOMES A SOCIETY WHERE FREEDOM IS THE POSSESSION OF ONLY A SAVAGE FEW; AS WE HAVE LEARNED TO OUR SORROW.

"WHAT THEN IS THE SPIRIT OF LIBERTY? I CANNOT DEFINE IT; I CAN ONLY TELL YOU MY OWN FAITH. THE SPIRIT OF LIBERTY IS THE SPIRIT WHICH IS NOT TOO SURE THAT IT IS RIGHT; THE SPIRIT OF LIBERTY IS THE SPIRIT WHICH SEEKS TO UNDERSTAND THE MINDS OF OTHER MEN AND WOMEN: THE SPIRIT OF LIBERTY IS THE SPIRIT WHICH WEIGHS THEIR INTERESTS ALONGSIDE ITS OWN WITHOUT BIAS; THE SPIRIT OF LIBERTY REMEMBERS THAT NOT EVEN A SPARROW FALLS TO EARTH UNHEEDED; THE SPIRIT OF LIBERTY IS THE SPIRIT OF <u>HIM</u> WHO, NEAR TWO THOUSAND YEARS AGO, TAUGHT MANKIND THAT LESSON IT HAS NEVER LEARNED, BUT HAS NEVER QUITE FORGOTTEN; THAT THERE MAY BE A KINGDOM WHERE THE LEAST SHALL BE HEARD AND CONSIDERED SIDE BY SIDE WITH THE GREATEST." * * * * * * *

* * * * *

THE LADY WHO HAS STOOD SHOULDER TO SHOULDER WITH ME - IN GOOD DAYS AND BAD DAYS - WHO GAVE ME ADVICE, COMFORT, UNDERSTANDING AND COMPANIONSHIP - IS STILL BESIDE ME AS WE ENTER ANOTHER PHASE OF OUR CAREERS, ON THIS JUDICIAL JOURNEY.

(Aileen is escorted to rostrum by Bill Ferdon, M.C. After bow, George and Aileen resume seats.)

<u>CLOSE</u>

BENEDICTION - RABBI ALVIN FINE

Appendix C -"River Lights," prose poem by Judge George Harris, which appeared in The Skipper, December 1965.

There is poetry in the peace and contentment,
That comes with the twilight hours
When dusk settles
And the day's sailing is done.
Lights come up in the cabins
As the muted notes of river life
Rise in a dissonant symphony—
A strange lonesomeness
Pervades the tranquil scene.

The romance and beauty of river lights,
A tapestry of color and harmony
Spreads out before the yachtsmen,
Illuminating their lives and spirits
As arm in arm they wander
O'er this island
To raise a glass in toast to friendship
and to our sailors who have sailed away.

Old regatta contests and protests
Are revived, others set at rest;
Tall tales are told
and glamorous stories
Of past victories recounted.
New and enduring companionships
Are formed with the aristocracy
Of true sportsmanship the enduring theme.

May there always be an island in our lives
Where we may pause
For a spell in calm waters,
Recount our blessings, spiritual and physical;
Take inventory of our gear and supplies,
And provision for a new cruise
In life's rough stream.

Shadowy, silhouetted
Let the river lights
And the majestic pageantry of color and music
Remind us of the beauty in our lives
And the eternal values of friendship.

George B. Harris

Appendix D

"SCATTERED LEAVES"
George Harris - Sire

Bohemian Grove
July 13- 1956-

"SOMEWHERE BETWEEN HEAVEN AND EARTH"

BOHEMIANS * * * * * *

RUB THE STAR DUST FROM YOUR EYES,
AND GAZE UPON THE HEAVENS,
YOUR ETERNAL HOME,
NESTLE CLOSELY IN MOTHER EARTH
WITH SCATTERED LEAVES, FOR A BLANKET UPON YOU,
DREAM - DREAM - CHILDLIKE, DREAMS.

LEAVE BEHIND YOU IN THE MARKET PLACE
RANCOUR, ILL-WILL AND PREJUDICE
IN THIS FOREST PRIMEVAL
LET YOUR SOULS BATHE
IN THE WATERS OF FORGETFULNESS
SOMEWHERE BETWEEN HEAVEN AND EARTH

IN THE WARMTH OF BROTHERLY LOVE
SAY WITH YOUR HEARTS, NOT YOUR LIPS
WHAT MORE FOR A MAN THAN THESE?
WHAT MORE THAN MUSIC AND STORY
LAUGHTER AND SONG?
SOMEWHERE BETWEEN HEAVEN AND EARTH

WHEN MIDSUMMER'S SONG IS ENDED
AND LAUGHTER IN THE FOREST IS STILLED
RETURN THEN YOU MORTALS, TO YOUR HOMES
WITH A SONG, - ONE MORE SONG IN YOUR HEARTS
WITH LYRICS BORN IN THE LOVE OF MAN FOR MAN
SOMEWHERE BETWEEN HEAVEN AND EARTH

THESE, THEN, ARE THE SCATTERED LEAVES OF REMEMBRANCE!
A SONG IN THE FOREST -
THE STRAINS OF MUSIC IN THE TREES
THE LAUGHTER OF MEN IN THE TWILIGHT HOURS,
AS ARM IN ARM THEY WIND THEIR WAY
FROM CAMP TO CAMP - - -
TO TELL A STORY, TO RAISE A GLASS
IN TOAST TO BOHEMIA'S FELLOWSHIP -
THESE ARE THE THINGS TO REMEMBER -
THE SCATTERED LEAVES OF YESTERYEAR!

* * * * * * * * * * *

LONG AFTER THE LIGHTS ARE DOWN ON THE LAST SHOW - - -
LONG AFTER THE CAMPS ARE CLOSED AND THE GROVE
RETURNED TO THE TENDER CARE OF NATURE - - -
THE FRIENDSHIPS FORMED CONTINUE ON AND ON,
IN DEPTH AND LASTING MEMORY.

INDEX -- Judge George B. Harris

Actor's Workshop, 31
Aikens, Bronte, 44
American Bar Association, Code of Conduct, 1973, 36
American Can Company, 171
American President Line, 147
American Society of Composers & Performers (ASCAP), 53
Ames, Alden, 100
antitrust cases, 66-69, 158-160, 167-174
Arbuckle, Fatty, 73
Atherton investigation, 1937, 95
Aureguy, Eugene, 62

Bagely, Jim, 47
bar assocation, 102-103, 123, 125
bar examinations, 41-42
Beadle, Philander, 145, 147-148, 150
Ben Blue v. The California Division of Corporations and the Commissioner of the Department of Investments, 74-75
Bergson, Herbert, 164
Berrescal, Bessie, 28
Biggs, John, 175, 177
Blue, Ben, 73-74
Blyth-Witter Company, 19-20
Bohemian Club, 41, 51, 174
bootlegging, 160-162
Brady, Matthew, 82, 94-96
Bridges, Harry, 1947 trial, 57, 74, 175, 179-187
Brown, Edmund G., Sr., 40-41, 81-82, 192

California, state
court administration, 85-86
California Lawn Tennis Club, 19
Carter, Jesse, 138
Carter, Oliver, 138, 152
Casey, Michael, 12
Catholic education, 9, 13-17, 25-29, 33-34
Chaplin, Charles, divorce case, 39, 60-61, 73
Chessman, Caryl, 192
China Dray, The, 6
Chinese, in San Francisco, 6-8
Christian brothers, school in S.F., 9, 13, 14, 16, 17, 25, 33
Clark, Tom, 122, 124

Comstock, Arizona, 73
Conlon, Jimmy, 101
Continental Can Company, 171-173
court administration, California state, 85-86
courts, justice, 86, 94
  appellate, 131-132, 177
  federal, district, 162
  jurisdiction, 149
  juvenile, 119, 120, 154
  municipal, 94, 100-107, 111-114
  superior, 119, 120, 154
  three judge, 175-177
  See also U.S. District Court
Cronin, Melvin, 119
Culinen, 46
Cunningham, Leo, 97

Deasy, Judge, 62-63
death penalty, 192
Democratic party, in San Francisco, 46, 75, 77, 80
Devine, Preston, 100
district attorney's office, 105, 113
Dominican order, 32
Donohue, F. Joseph, 182
Downey, Sheridan, 126-127
Driscoll, Patricia, 17, 45-46, 60, 73, 140, 171
Duffey, Vincent, 51
Dunn, Frank, 98
Dunn, Lucy, 65
Dunne, Arthur B., 146, 148
Dunne, Peter, 146

election campaigns, 1938 Assembly, 76-80, 83
Erskine, Herbert, 138-139
Estate of Flood, 63

Family, the, 49, 51
Faulkner, Harold, 160-161, 163
Federal Rules of Civil Procedure, 143
Finn, Tom, 80
Flood, Jim, 62
Ford, George, 62, 160
freedom of the press, 185
Friml, Kay Ling, 52-53
Friml, Rudolf, 51-55, 130

Garrick Theater, 26-28
Gavin, Constance May, 62
Getty, Gale Harris, 59
Gibson, Phil, 53, 85-86, 88, 94, 106, 120, 131
Gibson, Vickie, 85, 94
Golden, Joseph, 98
Goldsmith, Richard, 133-134, 136
Goldwyn, Samuel, 174
Goodman, Louis E., 131, 135, 137, 139, 144, 152, 187, 192

Hallinan, Vincent, 74-75, 182-183
Hammond, Naomi, 92
Harris, Aileen Duffy, 57-59, 83-84
Harris, Bernard Dugan, 3, 8, 18-21
Harris, George Washington, 2
Harris, Gertrude Howard, 3
Harris, Nieves de la Sierra, 2, 8, 16
Harris Corporation, 11
Harris family, 1ff, 142
Hawaii, labor unions, 175-177, 179
Hennessy, Frank, 164-165, 172
Henning, John (Jack), 2, 4, 9, 12, 13, 35
Henry, Brother, 26
Hill, Burfick, 28
Hillings, Pat, 152
Howard, Charles Sheldon, 5, 7, 8, 11, 43
Howard, Mary McLean, 3-8, 13, 15, 18, 34-35

International Longshoremen's & Warehousemen's Union [ILWU]
  ILWU v. Ackerman, 175
Irish, in San Francisco, 5, 13, 15, 80-81

Jastrow, H.A., 21, 23
Jesuits, 17, 29
judges, municipal, 97-100
  appointment of, 86-87, 93-95, 122-130, 139a, 154, 165, 191
  orientation, 98, 100-101
  presiding, 111-113
  temporary assignment, 119-120
judging, 108-111, 118, 131-133, 169, 179
judicial discretion, 96
judicial ethics, 36-37, 124, 163
juries, instructions to, 185-186
jury, grand, federal, 152-127
jury selection, 133, 142-146, 149-152, 177

Karesh, Joseph, 154-156
Kern County, California, land development in, 3, 2-21
Kern County Land Company, 21, 22-23
Knowland, William, 126-128, 139a

labor unions, 12, 134
  in Hawaii, 175-177, 179
  litigation, 178
  Seattle maritime strike, 1948, 43
Lacau, Mathilde, 92
law clerk, 100
law school, 20, 32, 35, 37, 40
Leo, Brother, 14, 15, 25, 97
Lewis, Father Reginald, 32-33
Lewis, Marvin, 77, 79
Los Angeles, lawyers in, 39
Louderback, Harold, 163-164

McInnis, James, 182-183
McMahon, John J., 92, 99, 102
McNab, Gavin, 38-39, 43-47, 59-61, 64-65, 73, 75-76
McNab, John, 46
Malone, William, 75-76, 80-91
Mary's Help Hospital, 135
Matson Navigation Company, 179
Medina, Herold, 181
Metzger, Delbert, 175-176, 178
Michelson, Twin, 99
Mitchell, Edward, 169
Molkenbuhr, Edward, 100
Murphy, Edward Preston, 88, 139, 152, 157, 174, 187

National Labor Relations Act, 178
NLRB v. Gerald Brown, 179
Native Sons of the Golden West, 55-56
naturalization, litigation, 181
Nixon, Richard M., 139a

O'Connor and Faulkner, 160
O'Gara, Gerald, 155-156
Olson, Culbert, 78-79, 86
Olson, Richard, 87

Peck and Howard Company, 6
Peckham, I.M., 1, 2, 57, 125-126, 156
Peckham, Robert F., 1, 193
philanthropy, 2, 135
Pillsbury, Madison & Sutro, 48
Pope, Walter, 177
pretrial procedures, 69-72, 143, 149, 159
probation, 116-118
public defender, 102-107

Queen's bench, 92-93

Redding, California, 138
Republican party, in San Francisco, 46, 77, 80
Richman, Howard, 28
Roche, Michael J., 133-134, 136, 144, 180
Roosevelt, Eleanor, 184-185

Sacred Heart College, 25-27
St. Dominic's Church, 15, 32
St. Sure, Adolphus Frederick, 130, 136, 162, 169
Samuel Goldwyn v. Fox West Coast, 174
San Francisco
  district attorney's office, 82, 94-97
  grand jury, 1951-1952, 152-157
  municipal court, 85, 94-107, 111-114, 134
  1906 fire, 10-11
  politics in, 43, 46, 55-56, 75-83
  port security in WW II, 89
  superior court, 119, 120, 154
Schmulowitz, Nat, 4,, 47, 60-61, 64-65, 76
sentencing, 110-111
Seymour, Whitney North, 67
Shelley, Jack, 89
Shortridge, Samuel, 163
Simpson, Father, 32
Society of California Pioneers, 57
Sons of Cincinattus, 81-82
Southern Pacific Company, 143, 145-146, 148-149
Stanford University, Law School, 41
statute of limitations, 181
Sutro, Jack, 123-124
Sweigert, William, 189

Taafe, John, 62-66
Taft-Hartley Act, 43
  litigation under, 178
test case, 177
Tevis family, 22-24
Tevis, Gordon, 21
Tevis, Willy, 21-23
theater, in San Francisco, 26, 49-53
Thiel, Gilbert, 145
Thiel v. Southern Pacific, 142, 144, 149-150, 152
Thomas, Brother, 13
trial lawyers association, 103
trucking industry in San Francisco, 5, 9, 12
Truman, Harry, 129

United States Appeals Court, Ninth Circuit, 181
United States attorney's office, 95, 154-156, 164-165, 170-171, 174, 177, 182
United States Coast Guard, volunteers in WW II, 89-91
United States District Court for the Northern District of California, 122-126, 133-134, 159, 162-162, 167, 187-191
  administration, 108
  caseloads, 124, 139, 150
  judges, 134-137
  jurisdiction, 137-139
United States Senate, 163
  Judiciary Committee, 122n, 126-127
United States Supreme Court, 186-187
U.S. v. American Can Company, 66-68, 158-159, 167-173
U.S. v. Harry Bridges, 180-187
U.S. v. Continental Can Company, 171
U.S. v. Hallinan, 75
U.S. v. International Longshoremen's & Warehousemen's Union, 43
U.S. v. Loew's, 174
U.S. v. United Shoe Machinery Corp., 66-67
University of San Francisco, 36

Vanessi, Joe, 52

Warren, Earl, 82, 90
Welsh, Martin, 136-137
Wollenberg, Albert, Sr., 76-79, 189
World War II, and civilians in San Francisco, 89-92
  selective service, 197, 114-115
Wright, Loyd, 61
Wyzanski, Charles, 66-67, 132

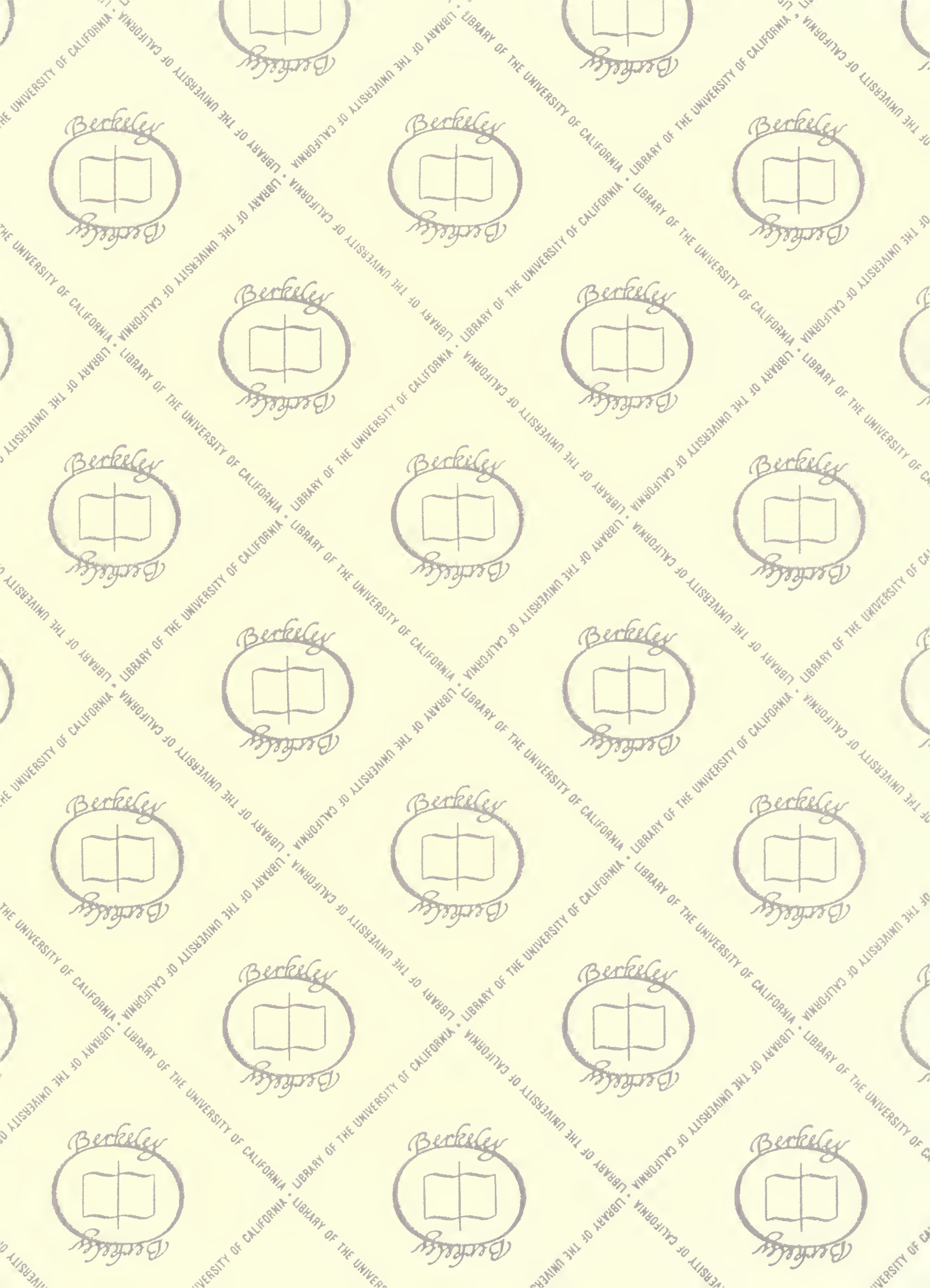
Zirpoli, Alfonso, 102, 114

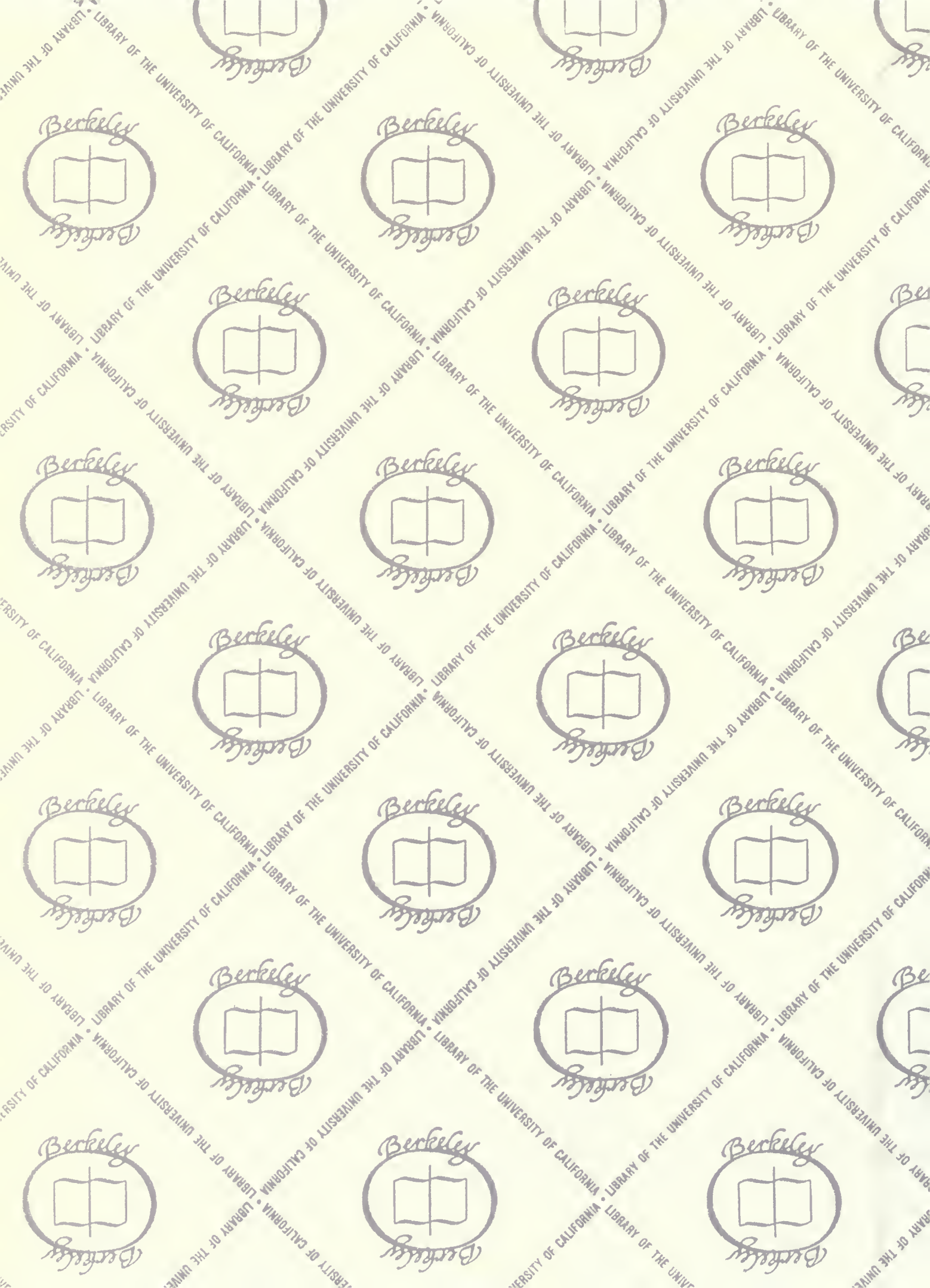
Gabrielle Morris

Graduate of Connecticut College, New London, 1950, in economics; independent study in journalism and creative writing; additional study at Trinity College and Stanford University.

Historian, U.S. Air Force, documenting Berlin Air Lift, other issues of 1945-1952; public relations and advertising for retail and theater organizations in Connecticut; research, writing, policy development on Bay Area community issues for University of California, Bay Area Council of Social Planning, Berkeley Unified School District, League of Women Voters.

Interviewer-editor, Regional Oral History Office, The Bancroft Library, 1970-present; coordinator, Government History Documentation Project, 1979-present.


Berkeley
LIBRARY OF THE UNIVERSITY OF CALIFORNIA


Berkeley
LIBRARY OF THE UNIVERSITY OF CALIFORNIA